

IN THE HIGH COURT OF JHARKHAND, RANCHI
Cr.M.P.No. 2440 of 2021

Sudhir Kumar @ Sudir Kumar

..... Petitioner

-- Versus --

The State of Jharkhand and Another

..... Opposite Parties

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner :- Mr. Kaushik Sarkhel, Advocate

For the State :- Mr. Sheilendra Kumar Tewari, Advocate

5/31.01.2022 This petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic.

The learned counsel appearing for the petitioner submits that he will remove the surviving defects within two weeks.

The learned counsel for the petitioner submits that an agreement was prepared between the petitioner and O.P.No.2 on 11.10.2017 and the same was duly executed and thereafter again an agreement dated 29.08.2018 was also prepared between the petitioner and the O.P.No.2 wherein it has been agreed that in Sri Sai Infocom 18% profit will be shared by the O.P.No.2 to the petitioner and it was also admitted that Rs.29 lakhs was invested by the petitioner in the said business. He further submits that the petitioner issued a legal notice upon O.P.No.2 on 02.11.2018 asking O.P.No.2 to immediately return the said amount and if the same is not returned within 15 days then a complaint will be filed against the O.P.No.2 for making breach of trust as well as for cheating and also under section 138 of Negotiable Instruments Act. He submits that after receiving the said notice, the F.I.R has been filed by the O.P.No.2. He further submits that the case of the petitioner is fully covered in the light of the judgment delivered by the Hon'ble Supreme Court reported in the case of "*Mahindra & Mahindra Financial Services Limited and Another v. Rajiv Dubey*", (2009) 1 SCC 706.

Let notice be issued upon O.P.No.2 by registered post with A/d as well as under ordinary process for which requisites etc. must be filed within two weeks.

The State is directed to file counter affidavit.

In the meantime, no coercive steps shall be taken against the petitioner in connection with Jagarnathpur (Pundag O.P.) P.S.Case No.510/2018, pending in the court of learned Chief Judicial Magistrate 1st Class, Ranchi till the next date.

Let this matter appear on 28.04.2022.

(Sanjay Kumar Dwivedi, J)

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