

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CRM(M) No. 779/2022
Crl M no. 1611/2022

Rajesh Sethi and others

..... Petitioner(s)/Appellant(s)

Through: Mr. P.N.Raina, Sr. Advocate with
Mr. J.A.Hamal, Advocate.

Vs

Mohd. Iqbal Shah

.....Respondent(s)/Caveator(s)

Through:

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER
06.10.2022

The respondent, claiming himself to be a contractor engaged to carry out some construction work pursuant to E-NIT No. 120 of 2020-21 dated 08.01.2021, bearing grievance about non clearance of his alleged dues by the officials of the Department came to file a criminal complaint against the petitioners herein alleging commission of offences on their part under Sections 166, 167, 420 and 109 of the Indian Penal Code.

Acting upon the said complaint, the Court of Judicial Magistrate Ist Class (Sub-Judge), Surankote came to put the petitioners herein to notice purportedly taking cognizance of the complaint. A reading of the complaint accompanying the present petition ex-facie reflects that it does not bear the factual contents which can warrant an inference about commission of offences as alleged in the complaint.

Prima facie, the issuance of process if that can be so said in terms of order dated 06.07.2022 by the learned Judicial Magistrate Ist Class (Sub-Judge), Surankote seems to be bad. In fact, the learned Magistrate has

compounded the situation by having one of the petitioners appearing in the court to submit an undertaking.

Prima facie case is made out.

Issue notice to the respondent.

Send for the record of the Judicial Magistrate Ist Class (Sub-Judge), Surankote with respect to file no. 83/Cr.Comp. titled “Mohd. Iqbal Shah v. Manish Bhatt and others”.

In the meantime, subject to objections from other side and till next date of hearing before the Bench, the operation of impugned order dated 06.07.2022 passed by the learned Judicial Magistrate Ist Class (Sub-Judge), Surankote shall remain stayed.

Learned counsel for the petitioners to furnish registered postal cover with respect to the service of the respondent upon which the Registry shall issue notice to the respondent. Let the needful be done within a period of seven days.

List this matter on 06.12.2022.

(Rahul Bharti)
Judge

Jammu :
06.10.2022
Pawan Chopra