

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20165 of 2012

Arising Out of PS.Case No. -2617 Year- 2011 Thana -null District- PATNA

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1. Dhaneshwar Pandit S/O Late Potan Pandit Resident Of Village- Sitakund, P.O.-
Dariakund, P.S.- Mufassil, District- Munger

.... Petitioner/s

Versus

1. The State Of Bihar
2. Mahesh Kumar S/O Late Sita Ram Modi Resident Of Mohalla- 23 Sita Ram
Path, West Patel Nagar, P.O. & P.S.- Shashtri Nagar, District- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Harish Kumar, Advocate

For the Opposite Party/s : Mrs. Meena Singh, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 23-02-2015

The Petitioner seeks quashing of the order of cognizance dated 4.2.2012 passed by the Judicial Magistrate, 1st class, Patna in Complaint case No.2617C of 2011.

The case of the Complainant is that a Co-operative Society had been formed for allotment of lands to needy persons. He was the Secretary of the Committee, whereas the Accused No.1 was the President. The Co-operative Society purchased certain pieces of land for the said purpose and allotted some of the flats to its members through registered sale deed. One Naresh Chandra Purbey being the Vice President of the Committee executed a sale deed in favour of the Complainant, after which he is coming in possession of the same.



Later on he found that the Accused No.3 i.e. the Petitioner started laying a claim upon the said land, at which he filed Miscellaneous case No.9 of 2010 before the Joint Registrar, Co-operative Society, Patna Division, Patna. Later the Complainant learnt that with malafide intention the Accused Nos.1 and 3 have made Accused No.2, the Secretary removing him and started holding the business of the Society after ousting him.

It has been submitted on behalf of the Petitioner that even conceding the allegations in the Complaint Petition no criminal offence whatsoever is made out. Further as mentioned by the Complainant when the matter was referred to the Registrar he ruled in favour of the Petitioner and against the complainant. If at all the Complainant is aggrieved with his removal as the Secretary, cause of action would come within the jurisdiction of the Registrar, Co-operative Society and not in a Criminal Court. The further submission is that before the present Complaint the Complainant had filed another Complaint which was sent for investigation under Section 156(3) Cr.P.C. and, therefore, this Complaint is not maintainable.

On the other hand, the Counsel for the Complainant submits that the earlier Complaint is still under investigation and since no good came out of it he filed the present Complaint. Further that in the facts of the case a criminal offence is made out.

Having gone through the Complaint Petition, I am unable to satisfy myself that there are any ingredients of any criminal offence in the facts stated therein and mentioned above.

Hence, the application is allowed and the proceeding including the order of cognizance dated 4.2.2012 passed by the Judicial Magistrate, 1st class, Patna in Complaint case No.2617C of 2011 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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