

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No. 8870 of 2013**

Arising out of P.S. Case No. -368 Year- 2011 Thana -PATNA  
COMPLAINT CASE District- Patna

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Shamim Haider S/o Late Md. Matiullah Resident of Flat No. 405,  
Sharf Apartment, P.S.- Gandhi Maidan, District- Patna

.... .... Petitioner/s

Versus

1. The State of Bihar.
2. Ram Dayal Prasad S/o Late Nagina Prasad Resident of Mohalla-  
Kisan Colony, Phase-II, P.S.- Fulwari Sharif (Beur), District-  
Patna.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Rakesh Singh, Adv.

For the Opposite Party/s : Smt. Asha Kumari, APP.

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**CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH**

ORAL JUDGMENT

**Date: 12-05-2015**

No one appears on behalf of the Opposite Party

No. 2 on two consecutive dates.

The Petitioner seeks quashing of the order of  
cognizance dated 11.04.2011 passed by the Judicial  
Magistrate, 1<sup>st</sup> Class, Patna in Complaint Case No. 368(C)  
of 2011 so far as he is concerned.

The case of the Complainant is that he and the  
son of the Petitioner were on good terms. The younger  
brother of Complainant in 2006 wanted to sell his share  
in the house of his mother for a certain price. In order to  
purchase the so-called share the Complainant took a loan  
of Rs. 25,000/- from the Petitioner by mortgaging original  
sale deed of his mother's house. Later on when he  
returned the money and asked for the documents it was

learnt that the son of the Petitioner had mortgaged the same in the bank for taking cash credit of Rs. 15,00,000/-.

It has been submitted on behalf of the Petitioner that even conceding the allegations in the First Information Report it is apparent that all transaction were between the Petitioner's son and the Complainant where the Petitioner had no role to play. He has been dragged only for the reason of creating a pressure upon his son so as to come to a compromise.

Having gone through the Complaint Petition, I am inclined to agree with the submission so raised.

Hence, the proceeding including the order of cognizance dated 11.04.2011 passed by the Judicial Magistrate, 1<sup>st</sup> Class, Patna in Complaint Case No. 368(C) of 2011 is, hereby, set aside so far as the Petitioner is concerned.

The Application stands allowed.

However, this order shall not prejudice any party in any manner.

**(Anjana Prakash, J.)**

Vikash/-

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