IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.22217 of 2013

Arising Out of PS.Case No. -1149 Year- 2011 Thana -SITAMARHI COMPLAINT CASE District-SITAMARHI

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1. Anuradha Mehta @ Anuradha Mundkur D/O Late Ravindra Nath Mehta, W/O Balmiki Mundkur Resident Of 36/201, Heritage City, Gurgaon, Haryana

.... Petitioner/s

Versus

1. The State Of Bihar
2. Vijay Tahlani Son Of Manthan Das Tahlani Resident Of D/63, Sector 50, P.S. - Sector 49, Noida, District Gautam Budha Nagar, Uttar Pradesh, At Present Residing At Prabhas Agrawal, Khemka Colony, Sitamrhi, P.S. Sitamarhi Town, District Sitamarhi

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Vivekanand Singh, Advocate
For the Opposite Party/s : Mr. Madan Kumar, APP
For Opposite Party No.2 : Mr. Ashok Kumar Mishra, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 08-10-2015

The Petitioner seeks quashing of the order of cognizance dated 29.4.2013 passed by the court of Sri R.K. Sinha, Judicial Magistrate, Sitamarhi in Complaint case No.C-1149 of 2011.

The case of the Complainant is that he had been given the Power of Attorney on a certain consideration by the Petitioner and after that he had executed a sale deed but when he went for registration of the same he learnt on 30.11.2010 that the Power of Attorney had been cancelled. When he asked for refund of his money the same was not done and hence the present Complaint.

It has been submitted on behalf of the Petitioner that it is no doubt true that she had given Power of Attorney to the Complainant, but subsequently some dispute arose between them, on

account of which he sent a legal notice to her on 7.1.2011. The Petitioner then replied to the legal notice on 2.2.2011 raising her contentions. From these facts, it is apparent that the Complainant was fully aware that he was defaulting and it was likely that the Petitioner would cancel the Power of Attorney in view of his conduct.

On the other hand, the Counsel for the Complainant submits that since there is adequate material to show that the Petitioner had received a huge amount of money without executing the Power of Attorney, the subsequent conduct of cancelling the same and not refunding the money makes out a criminal offence and hence the Petitioner should be put on trial.

On going through the Complaint petition and the documents filed herein, I am inclined to observe that the present Complaint has been filed only with a view to ensure that the Petitioner refunds the money which the Complainant claims is due to him. Evidently a Criminal Court is not the correct forum for redressal of such a grievance. Hence, the application is allowed and the proceeding including the order of cognizance dated 29.4.2013 passed by the court of Sri R.K. Sinha, Judicial Magistrate, Sitamarhi in Complaint case No.C-1149 of 2011 without prejudice to either party is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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