

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 8140 of 2012

Arising out of P.S. Case No. -1090 Year- 2007 Thana -
Complaint District- EASTCHAMPARAN (MOTIHARI)

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1. Dashrath Sah S/o Gayni Sah R/o Vill- Ledhiyar, P.S- Sugauli,
Distt- East Champaran.
 2. Mahendra Sah S/o Gayni Sah R/o Vill- Ledhiyar, P.S- Sugauli,
Distt- East Champaran. Petitioner/s

Versus

1. The State of Bihar.
 2. Jameel Hassan Mian S/o Late Md. Jan Mian R/o Baksa Tola
Hatta, P.S- Sugauli, Distt- Motihari, East Champaran.
.... Opposite Party/s
- =====

Appearance :

For the Petitioner/s : Mr. P. K. Pandey, Adv.

For the Opposite Party/s : Mr. Aslam Ansari, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 09-03-2015

The Petitioners seek quashing of the entire proceeding including the order of cognizance dated 03.09.2007 passed by the Judicial Magistrate, 1st Class, East Champaran at Motihari in Complaint Case No. 1090 of 2007 (Tr. No. 2195 of 2011) under Sections 417, 465, 423 and 120(B) IPC.

The case of the Complainant is that the accused persons approached him for purchase of a certain piece of land which she accepted a consideration amount of Rs. 1,00,000/- (One Lac) that was given to the sister of the Petitioner on 28.12.2006 but thereafter he came to know that she was not the sister. The accused persons also went to his house and abused him.

It has been submitted on behalf of the Petitioners that fact of the matter is that Title Suit No. 78 of 2007 was

instituted where the claims of the Petitioners was found true and the Complainant could not prove that Mantura was not the sister of the Petitioners. Even while the said suit was pending the present Complaint was filed ventilating the same grievance. In fact she also filed Complaint Case No 2708 of 2011 upon which Sugauli P.S. Case No. 353 of 2011 was instituted for the same cause of action. It is under these circumstances that the Petitioners seek quashing of the prosecution.

On the other hand, Counsel for the Complainant submits that since the Petitioners had wrongly represented that Mantura was their sister and, therefore, they should be criminally prosecuted.

Having gone through the facts of the Complaint Petition, I would be inclined to hold that the present prosecution is a gross abuse of the process of the Court and deserves to be set aside.

Hence, the entire proceeding as against all the accused persons including the order of cognizance dated 03.09.2007 passed by the Judicial Magistrate, 1st Class, East Champaran at Motihari in Complaint Case No. 1090 of 2007 (Tr. No. 2195 of 2011) is, hereby, set aside.

The Application stands allowed.

(Anjana Prakash, J)

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