

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 9189 of 2010

Arising out of P.S. Case No. -0 Year- null Thana -null
District- PATNA

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1. Amit Kumar Sinha, Son of Sri Deonandan Prasad.
 2. Laxmi Devi, Wife of Sri Deonandan Prasad.
 3. Gopal Saran Sinha, Son of late Brij Bansi Sahay. All resident of Mohalla-Postal Park, Near R.P. School, Ram Nagar, P.S.-Jakkanpur, District-Patna.
 4. Malti Sinha, Wife of Shashi Bhushan Prasad.
 5. Shashi Bhushan Prasad, Son of Late Ram Chandra Prasad. Both resident of Mohalla-New Bigrapur, Bihari Rai Lane, P.S.-Jakkanpur, District-Patna. Petitioner/s

Versus

1. The State of Bihar.
 2. Sanjay Kumar, Son of Bishwanath Prasad, Resident of Mohalla-Ashok Nagar, Road No. 8B, P.S.-Kankarbagh, District-Patna. Opposite Party/s
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Appearance :

For the Petitioner/s : Mr. Mahendra Thakur, Adv.

For the Opposite Party/s : Mr. APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 18-09-2015

No one appears on behalf of the Opposite Party

No. 2.

The Petitioners seek quashing of the order of cognizance dated 05.01.2010 passed by the Judicial Magistrate, 1st Class, Patna in Complaint Case No. 3120(C) of 2009 (Tr. No. 307 of 2010).

The case of the Complainant is that while in business transaction between each other the accused persons committed defalcation of amount of sales and when they were confronted they snatched his personal possession.

It appears that the Petitioner No. 1 had filed Complaint Case No. 2894(C) of 2009 against the Opposite Party No. 2 with same allegations. Evidently, there appears some kind of dispute in business which could not come within the purview of a criminal offence and rest of the allegations of assault and theft appear trumped up.

Hence, the entire proceeding as against all the accused persons including the order of cognizance dated 05.01.2010 passed by the Judicial Magistrate, 1st Class, Patna in Complaint Case No. 3120(C) of 2009 (Tr. No. 307 of 2010) is, hereby, set aside.

Also, in the interest of justice, the further proceeding of Complaint Case No. 2894(C) of 2009 dated 06.11.2009 pending before the Chief Judicial Magistrate, Patna shall stand dropped

The Application stands allowed with the aforesaid observations.

(Anjana Prakash, J.)

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