

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 8533 of 2013

Arising Out of PS.Case No. -205 Year- 2000 Thana -PURNEA SADAR District- -

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1. Jay Prakash @ Jay Prakash Prasad son of late Bhrigurasan Sah.
 2. Manager Prasad.
 3. Surender Prasad.
 4. Shyamlal Prasad

.... Petitioner/s

Versus

1. State of Bihar.
2. Badrai Agrawal.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 08-05-2015

In the nature of dispute notices had been issued to the Opposite Party no. 2 but despite service of notice none appeared on his behalf.

The petitioners seek quashing of the order of cognizance dated 09.07.2012 passed by the Chief Judicial Magistrate, Purnia in Sadar P.S. Case No. 205 of 2000.

The case of the informant is that he had business dealings with the petitioners in course of which the accused negotiated for purchase of the trucks which were plied by him and owned by the petitioner Shyamlal. He purportedly paid a sum of Rs. 2,50,000/- to them which developed some mechanical problem for which he got them repaired on 19.05.1997. When he returned from Chennai, the accused offered

that he may purchase another truck for which he paid a sum of Rs. 2,70,000/-. The accused persons promised that they would transfer the ownership of the trucks in question after expiry of the permit but the same was not done. Later the accused persons borrowed his truck for temporary period but after lapse of time refused to return the same hence the present first information report.

It has been submitted on behalf of the petitioners that there were business dealings between the parties and the trucks of the petitioners were plying in the services of the complainant but they never sold to him. Apart from oral allegation and some bank transactions there is no other material to corroborate the prosecution case.

The case diary was called for to verify as to whether the trucks were recovered and if at all taken away. There is no mention with regard to the trucks in the entire case diary. No doubt there is a mention of payment of certain amount of money to the accused persons by the informant but that by itself would not corroborate the prosecution case inasmuch as the informant has himself conceded that he was using the trucks of the petitioners on hire and in all probability the payments were against the services rendered.'

Having considered the aforesaid, the application is allowed and the order of cognizance dated 09.07.2012 passed by the Chief Judicial

Magistrate, Purnia in Sadar P.S. Case No. 205 of 2000 is hereby quashed.

However, quashment of this order shall not give any undue advantage to any party.

(Anjana Prakash, J)

Prakash/-

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