

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12621 of 2014

Arising Out of PS.Case No. -2314 Year- 2006 Thana -BHAGALPUR COMPLAINT CASE District-
BHAGALPUR

- =====
1. Pappu Jha, son of late Udit Narayan Jha,
 2. Smt. Satyabhama Devi, widow of late Udit Narayan Jha,
 3. Bipin Yadav, son of Bhuneshwar Yadav, all resident of village- Achraj, P.O-
Bounsi, Police Station- Bounsi, District- Banka.

.... Petitioner/s

Versus

1. The State of Bihar,
2. Ganaga Devi, wife of Tengar Harizan, resident of Mirzapur, Police Station-
Rajouri, District- Banka, at present residing at Jawahar Lal Nehru Medical
College Hospital, Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. C. B. Das, Advocate
For the Opposite Party/s : Mr. Swapnil Kumar Singh, Advocate
APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 02-07-2015

1. The Petitioners seek quashing of the order of non-discharge dated 12.11.2013 passed by the Judicial Magistrate, 1st class, Bhagalpur, in Complaint Case No.2314 of 2006/Tr.No.1887 of 2007.

2. The case of the Complainant is that when her husband Tengar Harijan required medical attention, she for want of money sold one Katha land to Petitioner No.1. However, since the deal was for ₹78,000/-, he was paid only ₹29,000/-. Thereafter, when she demanded an explanation, she was threatened at the point of pistol.

3. It has been submitted on behalf of the Petitioners

that fact of the matter is that the Complainant and her previous husband Manoj Kumr Mandal received a deed of gift in 1995 for ½ Kattha land each. However, she sold off her husband's share also to the Petitioner No.1 and thus, cheated him. For this reason, previous husband of the Complainant initiated a proceeding under Section(s) 144/145 Cr. P. C. against the Petitioners. Under such circumstances, evidently, it is the Petitioner No.1, who has been cheated instead of the Complainant.

4. On the other hand, counsel for the Complainant submits that since the Petitioner No.1 did not pay the entire amount to her, he should be put on trial.

5. Having considered the nature of dispute which is essentially civil in nature and the background facts, I am inclined to allow the application.

6. Accordingly, the order of non-discharge dated 12.11.2013 passed by the Judicial Magistrate, 1st class, Bhagalpur, in Complaint Case No.2314 of 2006/Tr.No.1887 of 2007 is hereby set aside.

7. The application stands allowed.

(Anjana Prakash, J)

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