

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.23409 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- SARAN

- =====
1. Jai Kishore Singh S/o Late Jagdeo Singh.
 2. Nirmala Devi D/o Umashankar Singh W/o Jai Kishore.

.... Petitioner/s

Versus

1. State of Bihar.
2. Uma Shankar Singh S/o Late Mangani Singh.

.... 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: 04-05-2015

It has been submitted that the Petitioner no. 2 is no more and his application has become infructuous.

It is dismissed as such.

The counsel for the Opposite Party No. 2 submits that his client has taken away the file because the restoration has been filed after long time.

The petitioner seeks quashing of the order of cognizance dated 21.03.2009 passed by the Judicial Magistrate 1st Class, Saran in Complaint Case No. 3175 of 2007.

The case of the complainant is that he had mortgaged his land to the accused persons on 31.05.1990 since he was in urgent need of money. Due to illiteracy he could not decipher that the deed executed by him was with regard to some other lands than that which

was agreed upon. Later on when he tried to seek an explanation from the accused he was assaulted and hence this complaint in the year 2007.

It has been submitted on behalf of the petitioner that evidently the complaint is false inasmuch as if a deed was executed in the year 1990 there was no reason for him having waited for 17 years for filing this complaint.

Having gone through the facts of the case, I would be inclined to agree with the submissions of the petitioner. Hence the application is allowed and the order of cognizance dated 21.03.2009 by which the Judicial Magistrate 1st Class, Saran has taken cognizance in Complaint Case No. 3175 of 2007, is hereby quashed.

However, this order shall not prejudice any party in any manner.

(Anjana Prakash, J)

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