

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.45536 of 2012**

- =====
1. Md. Murshid Alam, son of Md. Habibur Rahman
  2. Md. Israil, son of late Fazilat Hussain, both are resident of Village Jhamta, P.S. Araria, District-Araria
  3. Jalal, son of Jamil, resident of Khalilabad Nagar Prishad, Araria, P.S. Araria, District Araria.

.... .... Petitioner/s

Versus

1. State of Bihar
2. Md. Mohiuddin, son of Dost Mohammad, resident of Village- Kakurwa Vasantpur, P.S. Araria, District Ariaria.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. S.R. Haque, Advocate.

For the Opposite Party/s : Mr. Fahim Uddin (APP)

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**  
**ORAL ORDER**

2      16-04-2015      Heard the parties.

This application has been filed for quashing the order dated 21.10.2011 passed by the Judicial Magistrate Ist Class, Araria in Complaint Case No.1129 © of 2011 for the offences under Section 323, 420 and 120B of the Indian Penal Code by which he has taken cognizance against the petitioners.

Allegation has been made against the petitioners that they have shown intention to the complainant to sell the land with respect to Khat No. 1205, Plot Nos.1205, 173 and 174, area 6.5 decimals of land. Accordingly on the consideration amount of Rs.14,000/- he executed a sale deed and also

deliver the possession. Later on it was found that the petitioner has already sold 2.5 decimal of land to other persons which led to filing of the present case.

Learned counsel for the petitioners submits that it is basically a civil dispute and can only be settled in civil suit.

The argument of the petitioners is not sustainable as in the present case allegation has been that petitioners have sold the same land twice without disclosing the fact of his earlier sale. If any action of person primarily is a civil dispute then in that circumstances the Court will exercise the power of inherent jurisdiction but in the case when nature of allegation makes out the criminal case and civil case, in that circumstances both can run together. It will be relevant to rely on the judgment of the Hon'ble Supreme Court in the case of Indian Oil Corporation Vs. NEPC India Ltd., reported in (2006)6 SCC 736. In the present case, by his action and inaction, cheated his vendee in terms that the petitioner kept his purchaser under dark were, sold same land twice, itself prima-facie constitute criminal offence.

In view of the authoritative pronouncement of the Hon'ble Supreme Court, this Court does not find any error in the impugned order. Accordingly this application is

dismissed.

Vinay/-

(Shivaji Pandey, J)

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