

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 37445 of 2012

Arising out of P.S. Case No. -456 Year- 2011 Thana -null
District- KISANGANJ

- =====
1. Dr. Kalyan Kumar Mitra S/o Dr. Ajay Kumar Mitra Resident of Sunbihi Apartment 73, A.M. Road, College Para Silliguri, P.O.+P.S.- Silliguri, District- Darjeeling.
 2. Tapti Banerjee D/o Late Ajay Kumar Mitra Resident of West Wind, 78 Raja S.C. Mallik Road, Block 5, Flat No. 10/B, Kolkata-700084.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Pramod Baid, Son of Sri Suraj Mal Bind, Resident of Saudagarpatti Road, P.O. & P.S. & District-Kishanganj.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Arun Kumar, Adv.

For the Opposite Party/s: Mr. Bipin Kumar, Adv.

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 03-07-2015

The Petitioners seek quashing of the entire proceeding including the order of cognizance dated 06.06.2012 passed by the Chief Judicial Magistrate, Kishanganj in Kishanganj P.S. Case No. 456 of 2011 (G.R. No. 1181 of 2011).

The case of the Informant is that a transaction had taken place between the parties for sale of certain piece of land but even after receipt of advance amount the accused persons did not execute the sale deed.

Counsel for the Petitioners submits that even admitting the allegations in the First Information Report at best a civil suit is made out. In fact, the Informant has

filed the suit for specific performance in which the Petitioners have appeared.

This fact is not controverted by the Counsel appearing on behalf of the Informant.

Considering that for the same cause of action the matter is before the Civil Court for adjudication, evidently, the present Complaint is a multiplicity of proceedings.

Hence, and the entire proceeding including the order of cognizance dated 06.06.2012 passed by the Chief Judicial Magistrate, Kishanganj in Kishanganj P.S. Case No. 456 of 2011 (G.R. No. 1181 of 2011) is, hereby, set aside.

The application stands allowed.

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

Vikash/-

(Anjana Prakash, J.)

U		T	
---	--	---	--