

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46978 of 2012

Arising Out of Complaint Case No.660 Year- 2010 District- Banka

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Arun Kumar Ratan, S/O Sri Jayant Kumar Lalm Resident Of Village- Parmeshwar
Dayal Road, Barmasia, Deoghar, P.O.- Deoghar, Distt.- Deoghar (Jharkhand)

.... Petitioner/s

Versus

1. The State of Bihar
2. Dharmendra Kumar Ratan, S/O Sri Jayant Kumar Lal, resident of Mohalla-
Shanti Nagar, Katoria, P.S.- Katoria, Distt.- Banka

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Jha, Adv.

Mr. Satyaveer, Adv.

For the State : Mr. Ram Chandra Singh, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 03-07-2015

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the order of cognizance dated 25.2.2011 passed by the Judicial Magistrate, 1st Class, Banka, in Complaint Case No. 660 of 2010.

The case of the Complainant is that the accused No. 1 who was his own brother had purchased a house where he was residing. The accused No. 1 showed his willingness to sell the house which the Complainant was ready to buy. However, despite payment of money before the family members, the accused No. 1 refused to execute the sale deed. When a Panchayti was held, a list was prepared, but to no avail. He was then sent a legal notice, but he did not reply.

It has been submitted on behalf of the Petitioners that since the allegations are oral in nature, there being no documentary proof in its regard, the Complainant be not permitted to proceed. Even conceding the allegation, at best a civil dispute is made out between two brothers over property.

On the other hand, the counsel for the Complainant submits that now charges have been framed and, therefore, the accused persons should be put on trial.

Having considered the nature of allegations and the transaction, I would be inclined to hold that in the facts of the case, no criminal offence is made out, even though, there are embellished allegations of assault and theft.

Hence the application is allowed and the proceeding including the order of cognizance dated 25.2.2011 passed by the Judicial Magistrate, 1st Class, Banka, in connection with Complaint Case No. 660 of 2010, is hereby set aside.

However, this order shall not give undue advantage to any Party in any manner.

(Anjana Prakash, J)

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