

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.46865 of 2012**

Arising Out of Complaint Case No.2607 Year- 2009 District- - Muzaffarpur.

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1. Ramphal Rai, S/O Nathuni Rai
  2. Surendra Rai, S/O Ramphal Rai
  3. Chandrakala Devi, W/O Surendra Rai

All are R/O Vill-Hasan Nagar & Tepari, P.S.-Piar, Distt-Muzaffarpur

.... .... Petitioner/s

Versus

1. The State Of Bihar
2. Satahi Devi, W/O Ramsagar Rai, R/O Vill-Hasannagar @ Tepari, P.S. Piar, Distt-Muzaffarpur

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

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**Appearance :**

For the Petitioner/s : Mr. Dharmendra Kr. Paswan, Adv.

For the Opposite Party/s : Mr. A.L. Pandit, A.P.P.

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**CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH**

**ORAL JUDGMENT**

**Date: 06-07-2015**

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of cognizance dated 20.8.2010 passed by the Judicial Magistrate, 1<sup>st</sup> Class, Muzaffarpur, in Complaint Case No. 2607 of 2009.

The case of the Complainant is that she used to reside in her maternal home under the guardianship of her brother-in-law. On 28.2.1979 grandfather of the Complainant Sarjug Rai executed a sale deed in respect of certain piece of land jointly in favour of his daughter-in-law, grand daughter whereby she came in possession of her part. However, the accused persons who were own relatives

dishonestly on the pretext of contracting Indira Awas in the name of Complainant, got executed some documents and converted the same into a sale deed. When she protested, she was assaulted by the accused persons who also committed theft of her personal possession.

It has been submitted on behalf of the Petitioners that there is evidently a land dispute between the Parties and the Complainant is asserting her rights over the land even though she has not rightful claim over the same.

On the last occasion, notices had been issued to the Opposite Party No. 2 but none appears on her behalf.

Having considered the facts of the case, I am inclined to hold that no Criminal offence is made out in the facts of the case and the allegations with regard to the assault and theft are merely embezzlements which are unbelievable.

Hence, the application is allowed and the Proceeding including the order of cognizance dated 20.8.2010 passed by the Judicial Magistrate, 1<sup>st</sup> Class, Muzaffarpur, in Complaint Case No. 2607 of 2009 is, hereby set aside.

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

**(Anjana Prakash, J)**

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