

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47232 of 2012

Arising Out of PS.Case No. -250 Year- 2009 Thana -null District- -

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1. Vinay Kumar S/O Deo Nandan Prasad @ Deo Nandan Sharma Resident Of
Mohalla- Salimpur Ahra, P.S- Gandhi Maidan, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Himanshu Bhushan Narayan S/O Late Dr. Mahesh Narayan Resident Of 102,
Ushpanjali Venketesh, Buddha Marg, P.S- Buddha Colony, District- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Singh, Advocate

For the Opposite Party/s : Smt. Suman Kumari Singh, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 27-07-2015

The Petitioner seeks quashing of the order of non-discharge dated 27.9.2012 passed by the court of Sri Ashutosh Khetan, Judicial Magistrate, 1st class, Patna in Buddha Colony P.S. case No.250 of 2009.

The case of the Informant is that he was the Director of a certain company, in which course two persons approached him as Director and Senior Project Officer for Bihar of A.P.H. Projects, Kolkata and they took a well equipped office on lease in the name of their company from the Informant, which was later on extended. He found that the activity of the company was suspicious and it was closed sometime in September, 2008. When he tried to contact them they did not respond. Later he found out that those two persons were in fact not the Director and Senior Project Officer that they had claimed.

It has been submitted that the Petitioner at the relevant time was the Project Engineer of A.P.J. Projects for entire State of Bihar and Jharkhand and an agreement was executed by this Petitioner in his capacity and not personal. Even though the agreement expired after 11 months but the company took permission till December, 2007. It is then that a dispute arose with residing in the family of the Informant with regard to apportionment of their house, which led to institution of the present First Information Report. Thus it is submitted that the First Information Report basically stems from the litigation within the family, in which the Petitioner had no role to play.

On the last occasion, notices had been issued to the Opposite Party No.2 but none appears on his behalf despite service of notice.

Considering such aspect of the matter, this application is allowed and the proceeding including the order of non-discharge dated 27.9.2012 passed by the court of Sri Ashutosh Khetan, Judicial Magistrate, 1st class, Patna in Buddha Colony P.S. case No.250 of 2009 is hereby set aside.

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

(Anjana Prakash, J)

Narendra/-

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