

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.21128 of 2011

Arising Out of PS.Case No. -349 Year- 2007 Thana -null District- BUXAR

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1. Ramashish Patel S/O Late Ganesh Patel, Resident Of Village- Bargajawa, P.S.- Shikarpur, Distt.- West Champaran, At Present- Brahampur Chourasta, P.S.- Brahampur, Distt.- Buxar

.... Petitioner/s

Versus

1. The State Of Bihar
2. Bir Bahadur Rai S/O Pashupati Rai, Resident Of Village- Pokharaha, P.S.- Bagen Gola, Distt.- Buxar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Radha Mohan Pathak, Advocate
For the State : Mr. T. Sharma, APP
For Opposite Party No.2 : None

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 10-03-2015

No one appears on behalf of the Opposite Party No.2.

The Petitioner seeks quashing of the order dated 28.12.2010, by which the Judicial Magistrate, 1st class, Buxar has refused to discharge the Petitioner in Complaint case No.349C of 2007 (Trial No.892 of 2011).

The case of the Complainant is that the accused persons were partners of a Chura Mill along with himself, in course of which he invested about Rs.2,80,000/- in the Mill. In course of transaction he learnt that the Petitioner had gone for selling Chura for about Rs.2 lacs but he did not return on time. Thereafter when the Complainant

made enquiries he learnt that the goods have been sold but the Petitioner refused to pay them their due.

It has been submitted on behalf of the Petitioner that even accepting the allegations in the Complaint Petition no criminal offence is made out and at best it appears to be a civil dispute.

In the facts of the case mentioned above, I am inclined to accept such submission.

Hence, the application is allowed and the proceeding including the order dated 28.12.2010 passed by the Judicial Magistrate, 1st class, Buxar in Complaint case No.349C of 2007 (Trial No.892 of 2011) is hereby set aside.

However, the quashment of the present proceeding shall have no bearing on any other claims.

(Anjana Prakash, J)

Narendra/-

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