

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.6202 of 2010

Arising Out of PS.Case No. --212 Year- 2005 Thana -null District- BUXAR

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1. Hari Narayan Pandey
 2. Mrityunjay Kumar @ Mritunjay Pandey sons of Madheshwar Pandey, both R/o village Dharupur, P.S. Bikramganj, Distt. Rohtas at present residing of Suraj Dress and Suraj Shoe Centre, Jha market, Tenduni chowk, Ara road, Bikramganj, P.S. Bikramganj, Distt. Rohtas

.... Petitioner/s

Versus

1. The State of Bihar
2. Bhola Prasad S/o late Hari Prasad R/o Tenduri chowk Hari Market Ara road, Bikramganj, P.S. Bikramganj, Distt. Rohtas A/p Civil Lines Buxar, P.S. Buxar Town, Distt. Buxar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rewati Kant Raman, Advocate

For the Opposite Party/s : Mr. M. Rab, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 11-09-2015

The Petitioners seek quashing of the order of cognizance dated 27.1.2010 passed by Sri R.K. Sinha, J.M., 1st class, Buxar in Case No.1466 of 2005/1301 of 2009 arising out of Buxar Nagar P.S. case No.212 of 2005.

The case of the Informant is that he had executed a sale deed with respect to a house in favour of the accused persons for consideration amount who had agreed to pay the rest on the next date and gave a cheque but despite not having given the entire amount they entered into the house breaking open the lock of the same.

It has been submitted on behalf of the Petitioners that fact of the matter is that the Petitioners had purchased a plot on 3.6.2005, the sale deed of which was executed by the Informant Bhola

Prasad in which one Lal Babu Verma, the brother-in-law of Bhola Prasad, was a witness. Ever since the execution of the sale deed the Petitioners being vendee have been coming in possession of the premises and in fact the Informant after having felt deprived of the increasing market value instituted the present First Information Report. In fact fraud was committed upon the accused persons on account of which Petitioner No.1 Hari Narain Pandey filed Complaint case No.495 of 2005, which has been registered as Bikramganj P.S. case No.56 of 2005. The further submission is that in the facts of the case it appears at best to be a case of civil dispute.

On the other hand, the Counsel for the Informant submits that since the Petitioners had illegally deprived him of his property, they should be put on trial.

Having considered the background facts and the nature of dispute mentioned above, I would be inclined to hold that the present First Information Report is a gross abuse of the process of the Court and deserves to be set aside. Hence, the application is allowed and the proceeding including the order of cognizance dated 27.1.2010 passed by Sri R.K. Sinha, J.M., 1st class, Buxar in Case No.1466 of 2005/1301 of 2009 arising out of Buxar Nagar P.S. case No.212 of 2005 without prejudice to either party is hereby set aside.

Narendra/-

(Anjana Prakash, J)

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