

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.11440 of 2010

Arising Out of PS.Case No. 533 Year- 2006 Thana -null District- PURNIA

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1. Deo Narayan Mahto S/O Late Ayodhya Prasad Mahto
2. Sone Lal Mahto S/O Late Shital Prasad Mahto
3. Sinod Mahto S/O Late Mishri Lal Mahto, No.1 resident of village Sahara, No.2 to 3 R/O Vill.-Kalyanpur, both within P.S.-Krityanand Nagar (O.P. Maranga), Dist.-Purnia.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Shri Manoj Kumar Mahto S/O Shri Narayan Prasad Mahto, R/O Vill.-Kalyanpur, P.S.-Krityanand Nagar (O.P.Maranga), Dist.-Purnia.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arun Prasad Ambastha, Advocate

For the Opposite Party/s : Mr. Md. Arif, APP

For Opposite Party No.2 : Mr. Gyanand Roy, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 18-09-2015

The Petitioners seek quashing of the order of cognizance dated 10.4.2007 passed by the Judicial Magistrate, 1st class, Purnia in Complaint case No.533 of 2006, which was affirmed by order dated 20.2.2010 passed by the 1st Additional Sessions Judge, Purnia in Criminal Revision No.228 of 2007.

The case of the Complainant is that he was the owner of a certain piece of land, of which a false sale deed was executed by the accused persons. It appears that initially a First Information Report was instituted but after due investigation final report was submitted. However a protest petition was filed which was treated as a Complaint

and thus the case proceeded.

It has been submitted on behalf of the Petitioners that even conceding the allegations in the Complaint Petition at best a civil dispute is made out.

On the other hand, the Counsel for the Complainant submits that since the Petitioners had forged the documents, they should be put on trial.

Considering that the allegations are merely oral in nature in which event the trial would be a nullity, the application is allowed and the proceeding including the order of cognizance dated 10.4.2007 passed by the Judicial Magistrate, 1st class, Purnia in Complaint case No.533 of 2006 as also the order dated 20.2.2010 passed by the 1st Additional Sessions Judge, Purnia in Criminal Revision No.228 of 2007 without prejudice to either party is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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