

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.13655 of 2010

Arising Out of PS.Case No. 2059 Year- 2008 Thana -null District- MUZAFFARPUR

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1. Kiran Devi wife of late Ramji Prasad
 2. Raj Kumar Agrwal @ Raju son of late Ramji Prasad Chudiwala, both are resident of Mohalla Pankaj Market road, Police Station Town, District Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Suresh Singh son of late Prabhunath Singh, resident of Mohalla Mehta Compound Malipur, Police Station Kazi Mohammadpur, District Muzaffarpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 29-09-2015

The Petitioners seek quashing of the order of cognizance dated 15.12.2008 passed by the court of the Judicial Magistrate, 1st class, Muzaffarpur in Complaint case No.2059 of 2008 (Trial No.3239 of 2009).

The case of the Complainant is that he had taken a shop on rent, for which he paid a certain amount of money. On a certain date he found that the articles from his shop were missing and he suspected that the accused persons had committed theft and thus caused him huge monetary loss.

It has been submitted on behalf of the Petitioners that fact stated in the Complaint Petition is completely false. In fact the

Complainant had no doubt rented out the premises but it was to the nephew of the Complainant who had started defaulting in payment of rent. When the Petitioners started making demands and filed a Rent Fixation Case on 16.8.2008, the present Complaint was filed evidently for ulterior reasons. The shop was already vacated in the year 2007 and the Complainant was not on rent.

Notices had been issued to the Opposite Party No.2 on many occasions but none appears on his behalf.

Having considered the nature of allegations and the background facts, I would be inclined to hold that the present Complaint 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 15.12.2008 passed by the court of the Judicial Magistrate, 1st class, Muzaffarpur in Complaint case No.2059 of 2008 (Trial No.3239 of 2009) is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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