

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 39669 of 2012

Arising out of P.S. Case No. -886 Year- 2012 Thana -null
District- VAISHALI(HAJIPUR)

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1. Arbind Kumar @ Arbind Kumar Choudhary S/o Sri Biyog Lal Choudhary Resident Of Yusufpur, Ward No. 13, Near Ganga Service Petrol Pump, P.S. Industrial Town, Hajipur, District Vaishal At Hajipur.
 2. Rajesh Kumar S/o Sri Hari Narayan Singh Resident of Village Rampur, Ramhan, P.S. Janadaha, District Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Suresh Prasad Chourasia S/o Sri Ram Vilas Bhagat Resident of Mohalla Gandhi Setu, Colony More, P.S. Alamganj, District Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shrawan Kumar, Sr. Adv.
Mr. Dinesh Maharaj, Adv.

For the Opposite Party/s: Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 30-11-2015

The Petitioners seek quashing of the order of cognizance dated 08.05.2012 passed by the Chief Judicial Magistrate, Vaishali at Hajipur in Complaint Case No. 886 of 2012.

The case of the Complainant is that he is Managing Director of Company and had required land for establishing office and godown of the companies. In the said transaction, he came in contact with the accused persons who entered into an agreement for sale of a certain piece of land. However, despite receipt of the said amount the accused persons did not execute a sale deed

and, hence, the present Complaint.

It has been submitted on behalf of the Petitioners that for the same cause of action the suit for specific performance has been filed and all the payments had been made by the Complainant within the time stipulated in the agreement which stood forfeited on account of non-payment of the balance amount. In such circumstances, no evidence of misappropriation or cheating is made out.

On the other hand, Counsel for the Complainant submits that the Petitioners have deprived him of his rightful possession by way of money and land they should be put on trial.

Having considered the fact that a large amount of money was paid by the Complainant to the Petitioner and in a private arrangement the agreement was extended which is ordinarily done when such negotiations take place and non-refund of the amount by the Petitioners under the circumstances is definitely an offence.

Hence, the Application stands dismissed.

(Anjana Prakash, J.)

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