

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.52875 of 2008

Arising Out of PS.Case No. -0 Year- null Thana -null District- MUZAFFARPUR

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1. Shambhu Prasad Sah @ Shambhu Pd.Gupta son of late Sahdeo Sah
 2. Manju Sinha wife of Shambhu Pd. Sah, both resident of village Rohua, P.S. Musahari, District Muzaffarpur

.... Petitioner/s

Versus

1. State of Bihar
2. Mani Kumar Mishra S/o late Ram Bhajan Mishra, R/o village Gobarsahi, P.O. Khabra, P.S. Sadar, Distt. Muzaffarpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Chandra Shekhar Singh, Advocate

For the Opposite Party/s : Smt. I.B. Pandey, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 07-07-2015

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

The Petitioners seek quashing of the order of cognizance dated 19.8.2008 passed by the Chief Judicial Magistrate, Muzaffarpur in Mushahari P.S. case No.83 of 2007.

The case of the Informant is that he was a small coal merchant and was conducting business by taking loan from a money lender. In course of business he met the Petitioners, who were brick kiln owner and business dealing started between them. However the Petitioners never fulfilled his demands of supply of coal despite receipt of payment and hence he instituted the present case.

It has been submitted that even conceding the allegations

in the First Information Report no breach of trust or cheating is made out and at best it would be a case of business relationship having gone sour which does not come under the purview of a criminal court.

Having considered the nature of allegations in the First Information Report, I would be inclined to agree with the submissions so raised on behalf of the Petitioners. Hence, the application is allowed and the order of cognizance dated 19.8.2008 passed by the Chief Judicial Magistrate, Muzaffarpur in Mushahari P.S. case No.83 of 2007 is hereby set aside.

However, it is made clear that this Court has not given a finding on the validity claims of either of the parties.

(Anjana Prakash, J)

Narendra/-

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