

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31763 of 2008

Arising Out of Complaint Case No.1881(C) Year 2007 District- PATNA

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1. Manju Ranjan, wife of Sri Vikash Ranjan Sinha.
 2. Mukta Sinha, wife of Sri Ranjan Kumar Sinha.
 3. Annu @ Neha @ Arpita Sinha, daughter of Shri Ranjan Kumar Sinha
 4. Riccu @ Ranjeeta Sinha, daughter of Sri Ranjan Kumar Sinha
- All resident of Jagannath Tower, Nala Road, P.S. Kadamkuan, Distt. Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Mithilesh Kumar Gupta, son of Hari Narayan Gupta, resident of Mohalla Macchuatoli, Arya Kumar Road, P.S. Kadamkuan, Distt. Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Diwakar Sinha, Adv.
 Mr. Kamal Kishore Jha, Adv.
 Mr. Rajesh Ranjan Tripathy, Adv.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 19-05-2015

Heard learned counsel for the Petitioners and the State.

The Opposite Party No. 2 is absent.

The Petitioners seek quashing of the order of cognizance dated 5.2.2008 passed by the Judicial Magistrate, 1st Class, Patna, in Complaint Case No. 1881C of 2007.

The case of the Complainant is that the accused No. 1 and 2 are Directors but not Partners of Jaishree Developers involved in constructing an Apartment in North Manderi whereas some of the accused persons were their close relatives involved in the constructions.

Allegation is that the accused persons approached the Complainant in the year 2003 for booking a Flat and assured that the

Flat would be completed in September, 2004 on account of which, he paid them Rs.1,00,000/- as advance against the total cost of Rs.5,00,000/-Thereafter, he also paid further amount through Cheques on an agreement but the accused persons started to demand more money even though, the Flat in question had not been completed. When he replied to the accused persons that he was willing to act in accordance with the agreement and also approached them, they refused to go ahead with the same.

It has been submitted on behalf of the Petitioners that even accepting the material in the Complaint petition, no criminal offence is made out and the best course for him would have been to go before the Consumer Forum. In fact, at the stage of bail, some of the accused persons with whom the agreement had been entered into, had been directed to return the money they had received from the Complainant which they did in due course. Whereas the Petitioners are concerned, no doubt, they are the family members of the main Developers but they have not involved in the transaction, being ladies.

Considering the aforesaid, the application is allowed and the entire proceeding including the order of cognizance dated 5.2.2008 passed by the Judicial Magistrate, 1st is hereby set aside.

(Anjana Prakash, J)

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