

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12538 of 2010

Arising Out of PS.Case No.2888 Year- 2007 Thana -null District- PATNA

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1. Rashmi Sinha @ Babli Sinha wife of Sri Ajay Kumar Sinha
 2. Ajay Kumar @ Ajay Kumar Sinha son of late Nareshwar Prasad, all are resident of Harihar Apartment, Boring road, P.S. Budha Colony, District Patna

.... Petitioner/s

Versus

1. State of Bihar
2. Upendra Kumar Son Of Late Jag Nandan Singh Resident Of Varsi Jag Nandan Apartment, 10 Gokul Path, North Sri Krishnapuri, Police Station Shrikrishnapuri, District - Patna

.... Opposite Party/s

with

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Criminal Miscellaneous No. 18096 of 2010

Arising Out of PS.Case No. 2888 Year- 2007 Thana -null District- PATNA

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1. Arbind Kumar Son Of Late Lakshmi Narayan Yadav Flast No. – 102
 2. Rajeshwar Kumar Son Of Late Khus Nandan Singh Flast No. - 202, both Resident Of Jag Nandan Warsi Apartment, 10 Gokul Path North Shrikrishnapuri, Police Station - Shrikrishnapuri, District - Patna.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Upendra Kumar Son Of Late Jag Nandan Singh Resident Of Flat No. - 301, Jag Nandan Warsi Apartment, 10 Gokul Path, North Shrikrishnapuri, Police Station Shrikrishnapuri, District - Patna.

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No. 12538 of 2010)

For the Petitioner/s : Mr. Nirbhay Kr. Singh, Advocate

For the Opposite Party/s : Mr. U.S. Pd. Singh, APP

For Opposite Party No.2 : Mr. Sanjay Kumar, Advocate

(In Cr.Misc. No. 18096 of 2010)

For the Petitioner/s : Mr. Raj Kishor Prasad I, Advocate

For the Opposite Party/s : Mr. Ajay Kumar 2, APP

For Opposite Party No.2 : Mr. Sanjay Kumar, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 06-10-2015

The Petitioners seek quashing of the order of cognizance dated 11.3.2008 passed by the Judicial Magistrate, 1st class, Patna in Complaint case No.2888C of 2007.

The case of the Complainant is that one of the accused persons approached the mother of the Complainant in the year 2002 for developing a land into a multi storied building a certain agreement was entered into between them on 7.6.2000. However the accused persons built the land but against the terms of the agreement for which he was compelled to file Title Suit No.219 of 2006. When the accused persons were noticed they got angry and they committed theft of his personal as well as house hold articles and assaulted him with fists and slaps.

In the nature of dispute the matter was referred to the Mediation Centre but it is alleged by the Complainant that the builder never appeared there and hence the application should not be entertained. Since the dispute was of such a nature that this Court had thought that it would be sorted out at that level but when it has not been done, this Court proceeds to hear the matters on merits.

On the other hand, the Counsel for the Complainant submits that since the Petitioners have violated the rules of agreement with a criminal intent of causing loss to him, they should be put on trial.

Having considered that the main grouse of the Complainant appears to be the fact that the work was not executed as per his satisfaction and the rest of the allegations in respect to slapping and abusing him as also committing theft of the house hold articles appear to have been evidently levelled only for the reason that the Petitioners be dragged before a Criminal Court, both the applications are allowed and the proceedings including the order of cognizance dated 11.3.2008 passed by the Judicial Magistrate, 1st class, Patna in Complaint case No.2888C of 2007 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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