

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15920 of 2010

Arising Out of PS.Case No. 2152 Year- 2008 Thana -null District- BHAGALPUR

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1. Purusottam Dubey S/O Late Bhuvneshwar Dubey R/O Moh.-Vikramshila,
Nagar, P.S.-Kahalgaon, Dist.-Bhagalpur.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Dani Mishra S/O Late Jay Kant Mishra, te Director Of Baidehi Enterprises
Pvt.Ltd.Co-12.A Ashutosh Mukherjee Road,Kolkatta,At Present R/O Swami
Vivekanand Path,Adampur,P.S.-Adampur,Dist.-Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : None

For the Opposite Party/s : Mr. R.B. Roy Raman, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 09-10-2015

No one appears on behalf of the Petitioner.

In the nature of dispute notices had been issued to the
Opposite Party No.2 but despite service of notice he has chosen not to
appear before this Court.

The Petitioner seeks quashing of the order of cognizance
dated 24.2.2010 passed by the court of Smt. Sulekha Jha, Judicial
Magistrate, 1st class, Bhagalpur in Complaint case No.2152 of 2008.

The case of the Complainant is that the son of the
Petitioner had taken loan to purchase a vehicle through Baidehi
Enterprises Private Limited under the terms and conditions of the
Company. However, the amount was not paid by the Petitioner and
when the Complainant went with two other staffs to the Petitioners
home to demand the same he abused him and took away his personal

possessions.

It appears that indeed the son of the Petitioner had taken a vehicle through the alleged finance company on the assurance of the Complainant of depositing Rs.2,64,000/- at the time of delivery of the vehicle and the rest be paid in instalments. The Petitioner's son paid the entire amount whereafter he went to the Complainant to ask for the documents of the vehicle but he did not give him the same. Unfortunately the son of the Petitioner died on 28.5.2008. So he started pursuing the same on his behalf but the dispute could not be resolved even after a legal notice was sent to the Complainant. Having no choice the Petitioner filed Complaint case No.2062 of 2008 on 15.11.2008 and it is then that the present Complaint was filed on 25.11.2008 evidently in retaliation and to create a defence.

Having considered the aforesaid facts, the application is allowed and the proceedings including the order of cognizance dated 24.2.2010 passed by the court of Smt. Sulekha Jha, Judicial Magistrate, 1st class, Bhagalpur in Complaint case No.2152 of 2008 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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