

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25946 of 2012

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1. Prabhat Kumar Choudhary S/O Late Ram Shakal Choudhary Managing Director, M/S Makan Developers (I), Pvt. Ltd., 1st Floor Super Market, Frazer Road, P.S.- Gandhi Maidan, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Dr. Md. Mahmoodul Haque S/O Late Md. Zafirul Haque Resident Of Kulharia Palace, Ashok Rajpath, Police Station- Pirbahore, Post- Bankipore, District- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Veena Kumari Jaiswal, Adv.

For the Opposite Party/s : Mr. Nawal Kishore Pd., App

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL ORDER

4 23-02-2015 The petitioner seeks quashing of the order of cognizance dated 07.12.2011 passed by the Judicial Magistrate, 1st Class, Patna in Complaint Case No. 815C of 2011.

The case of the complainant is that he negotiated with the petitioner for purchasing a flat in Kulharia Palace for a certain consideration amount. An agreement was signed by the parties. Later on he received the flat and a sale deed was executed by the petitioner in favour of the complainant on 22.04.2010. However, he complained that he was cheated of Rs. 92,130/- by way of penalty and some other costs.

Counsel for the petitioner submits that even considering the allegation in the first information report, it would not come

within the purview of a criminal offence.

On the other hand counsel for the complainant submits that he is ready to compromise the matter if he is refunded the extra payment which he had pad to the petitioner.

I find that there are documents to show in the petition that a sale deed was executed in favour of the complainant on 22.04.2010 and the present complaint was instituted on 21.03.2011 i.e. about five months after the sale deed was executed. If at all the complainant had any grievance with the petitioner he could have raised the same at the appropriate point of time but he did not do so. Hence I would be of the opinion that the present complaint has been lodged not only on misconceived facts but also for ulterior reasons.

Accordingly, the application is allowed. The order of cognizance dated 07.12.2011 passed by the Judicial Magistrate, 1st Class, Patna in Complaint Case No. 815C of 2011 is hereby set aside.

(Anjana Prakash, J)

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