

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12070 of 2013

Arising Out of PS.Case No. -3205 Year- 2011 Thana -VAISALI COMPLAINT CASE District- -

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1. Jyoti Narayan Pandit S/O Late Sukhdeo Pandit Resident Of Village- Mahnar Kharjama Ward No. 4, P.S.- Mahnar, District- Vaishali
 2. Md. Sahiullah @ Sahidullah S/O Rahmatullah Resident Of Mohalla- Mahnar Kazi Bagh, P.S.- Mahnar, District- Vaishali
 3. Abdul Majid S/O Late Rafique R/O Village- Sipahi Tola, P.S.- Mahnar, District- Vaishali
 4. Abdul Rashid Khan S/O Late Abdul Suhan Khan R/O Village- Sipahi Tola, P.S.- Mahnar, District- Vaishali
 5. Suresh Pandit S/O Jyoti Narayan Pandit R/O Mohalla- Mahnar Kharjama, P.S.- Mahnar, District- Vaishali

.... Petitioner/s

Versus

1. The State Of Bihar
2. Abdul Rashid S/O Late Fida Hussain R/O Village- Mahnar Kazi Bagh, P.S.- Mahnar, District- Vaishali

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur, Advocate
For the Opposite Party/s : Mr. Shailendra Kumar No.2, APP
For Opposite Party No.2 : Mr. Anil Kumar Tiwary, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 03-11-2015

The Petitioners seek quashing of the order of cognizance dated 28.1.2013 passed by the Judicial Magistrate, 1st class, Vaishali at Hajipur in Complaint case No.3205C of 2011.

The case of the Complainant is that he was a Power of Attorney holder of two persons and was looking after the lands in question in capacity of the same. It was then that with consent of the owners the Complainant executed a sale deed in favour of the

Petitioner No.1 with some conditions but the transaction went bad on account of which proceedings under Sections 107/144 Cr.P.C. were initiated.

The Counsel for the Petitioners submits that from the narrative of the transaction given by the Complainant it is evident that he had executed the sale deed in favour of the Petitioner No.1 and hence admittedly it was only after receipt of the entire consideration amount that he had been given possession over the land, due to which he got the same mutated in his favour. Thereafter the Petitioner No.1 executed a registered sale deed in favour of the Petitioner No.2 on 25.10.2011 and the present Complaint was filed on 14.11.2011 so as to create a dispute in its regard. For the same cause of action admittedly now a proceeding under Section 144 Cr.P.C. was initiated and hence converting a civil dispute into one punishable before a Criminal Court the present Complaint has been instituted.

On the other hand, the Counsel for the Complainant submits that since the Petitioners had committed a fraud upon him, they should be put on trial.

Having considered the background facts and nature of allegations, I would be inclined to hold that in the facts stated in the Complaint Petition no criminal offence is made out. Hence, the application is allowed and the proceeding including the order of

cognizance dated 28.1.2013 passed by the Judicial Magistrate, 1st class, Vaishali at Hajipur in Complaint case No.3205C of 2011 without prejudice to either party is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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