

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.33836 of 2012

Arising Out of Complaint Case No.591 Year- 2004 District- PATNA

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Shanti Bhushan Nirala, son of Sri Mundrika Singh, resident of village Kaswa, P.O. Manjholi, P.S. Bakhtiyarpur, Distt. Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Lal Bahadur Prasad, son of Sri Ganga Singh, resident of village Bara, Hasanpur, P.S. Khusroopur, Distt. Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rudra Deo, Adv.

For the State : Mr. Narsingh Tanti, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 21-04-2015

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the order of cognizance dated 11.4.2012 by which the Judicial Magistrate, 1st Class, Patna City, Patna, has refused to discharge the Petitioner in Complaint Case No. 591 of 2004.

The case of the Complainant is that he and the Petitioner were grand children of one Subalal Yadav. The Petitioner was made a nominee in one of the Fixed Deposit and it was expected that he would disburse the money to his legal heirs having withdrawn the money as a nominee after his death, but he did not do so. Hence the present Complaint.

It has been submitted on behalf of the Petitioner that

even accepting the allegations in the Complaint petition, no Criminal offence is made out specially since there have been a series of agreements between the Parties to settle the property dispute between the grand children.

On the other hand, the counsel for the Complainant submits that being the grandson of deceased, the Complainant was also a beneficiary and, hence, the money should have come to him as well and therefore the Accused not having given him his share, he deserves to be prosecuted.

Having considered the facts of the case of the Complainant, I am unable to convince myself that in the facts stated therein, any Criminal offence is made out.

Hence, the application is allowed and the entire Proceeding including the order of cognizance dated 11.4.2012 passed by the Judicial Magistrate, 1st Class, Patna City, Patna, in Complaint Case No. 591 of 2004 is, hereby set aside.

However, this order shall not prejudice the claim of any Party.

(Anjana Prakash, J)

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