

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43638 of 2012

Arising Out of PS.Case No. -111 Year- 2009 Thana -null District- PATNA

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1. Vinod Kumar Kamalia S/O Raja Ram Kamalia
2. Ram Krishna Kamalia S/O Vinod Kumar Kamalia
3. Sheo Krishna Kamalia S/O Vinod Kumar Kamalia
4. Shri Krishna Kamalia S/O Vinod Kumar Kamalia, all Resident Of Rajendra Enclave, Exhibition Road, P.S.- Kotwali, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Vishal Kapoor S/O Ramesh Chandra Kapoor, Resident Of Killa Road, Patna City, P.S.- Chowk, District- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amit Bhusan, Advocate

For the Opposite Party/s : Smt. Anita Kumari Singh, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 23-06-2015

The Petitioners seek quashing of the order of cognizance dated 21.9.2010 passed by the Judicial Magistrate, 1st class-cum-Addl. Munsif-III, Patna City in Complaint case No.111 of 2009.

The case of the Complainant is that the accused No.1 M/s Anant International Pvt. Ltd. was a partnership firm where the other co-accused were partners therein. On 27.12.1999 the Accused gave a proposal to the Complainant for financial assistance of a certain amount of money on interest. As per the same the Complainant gave them loan but after a certain while the accused persons stopped giving the interest amount and refused to return the

principal amount.

It has been submitted on behalf of the Petitioners that even accepting the allegations in the Complaint Petition, at best a case of financial dispute is made out, which is civil in nature and would not come within the purview of a criminal case. Moreover it appears that the Complainant has given his unilateral version of transaction concealing relevant facts and hence it should not be entertained any further. Further submission is that the Accused No.1 is not a partnership firm and in fact the Petitioners were former Directors of the Company.

On the last occasion notices had been issued to the Opposite Party No.2 but none appears on his behalf.

Considering the nature of allegations in the Complaint Petition, I would be inclined to hold that no criminal offence is made out and hence the application is allowed and the order of cognizance dated 21.9.2010 passed by the Judicial Magistrate, 1st class-cum-Addl. Munsif-III, Patna City in Complaint case No.111 of 2009 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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