

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.16112 of 2009

Arising Out of PS.Case No. -0 Year- null Thana -null District- PATNA

Hiranmay Roy & Anr

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 17-07-2015

No one appears on behalf of the parties.

The petitioner seeks quashing of the order of cognizance dated 11.03.2008 passed by the Judicial Magistrate 1st Class, Patna in Complaint Case No. 338C of 2006.

The case of the complainant is that the accused persons had taken loan of Rs. 1 lakh from Housing Development Finance Corporation Ltd. without consent of the complainant or his late father Mohan Choudhary on the basis of documents of house which was joint property. When the said Mohan Choudhary died, they all were noticed for loan re-payment and hence the present complaint.

It has been submitted on behalf of the petitioners that it is true that Mahesh Choudhary had applied for housing loan from the office of Housing Development Finance Corporation Ltd. and had placed

documents of land / house owned of him situated at Gardanibagh. The said property had been purchased by his father in 1992 and it was mutated in his name where after he was paying the tax. Under these circumstances the allegation of complainant that joint family property had been placed for securing loan is unjustified.

Considering the nature of allegation I would be inclined to agree with the petitioner. Hence the application is allowed and the order of cognizance dated 11.03.2008 passed by the Judicial Magistrate 1st Class, Patna in Complaint Case No. 338C of 2006 is hereby set aside.

(Anjana Prakash, J)

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