

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17943 of 2009

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

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Shatrunjay Sharan Sinha & Anr

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

Mr. Pankaj Kr.Das

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 17-07-2015

No one appears on behalf of he O.P. No. 2.

The petitioner seeks quashing of the order of cognizance dated 13.01.2009 passed by the Judicial Magistrate 1st Class in Complaint Case No. 754 of 2008.

The case of the complaint is that he had arrived 1/3 share of plot which the Petitioner No. 1 took on lease from the complainant as co-sharer for a period of 10 years . However, they sustained some loss and proposed the complainant to enter into an agreement for brick kiln. The complainant received some money. But unfortunately the brick kiln was also closed but the accused persons did not pay him the required money.

It has been submitted on behalf of the petitioners that fact of the matter is that the business was flourishing and they regularly

paid rent to the complainant and his co-sharer. However, complainant later proposed to induct his son as a partner which he was done. Then the complainant and his son took possession of the entire brick kiln. Under these circumstances there was no question of them giving any money and hence evidently no offence is made out.

Considering that the allegations are merely oral in nature without any documentary proof, the application is allowed and the order of cognizance dated 13.01.2009 passed by the Judicial Magistrate 1st Class in Complaint Case No. 754 of 2008 is hereby set aside.

(Anjana Prakash, J)

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