

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.13226 of 2010

Arising Out of PS.Case No. 1594 Year- 2007 Thana -null District- SAMASTIPUR

Vishwanath Singh son of late Shivdeo Singh, resident of village Bishanpur Beri (Mateor), P.S. Mohiuddinagar, District Samastipur

.... Petitioner/s

Versus

1. The State of Bihar
2. Sanjay Kumar Singh son of late Maheshwar Singh, resident of village Matior, P.S. Mohiuddinagar, Distt. Samastipur

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amitabh Bhardwaj, Advocate

For the Opposite Party/s : Mr. R.B. Roy Raman,APP

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 22-09-2015

No one appears on behalf of the Opposite Party No.2.

The Petitioner seeks quashing of the order of cognizance dated 9.4.2009 passed by the Judicial Magistrate, 1st class, Samastipur in Complaint case No.1594 of 2007.

The case of the Complainant is that the Petitioner had taken loan from the father of the Complainant for running a business, who subsequently died. When the Complainant started demanding refund of the loan amount, the Petitioner refused to do so. So he complained to the police but no action was taken and hence the present Complaint.

It has been submitted on behalf of the Petitioner that the oral allegations in the Complaint Petition are completely false. There

was no such transaction between the parties. In fact the Complainant has also resorted to filing Money Suit No.13 of 2008 and when the subject matter of the two proceedings is one and the same, the present Complaint should not proceed.

In view of aforesaid, I am inclined to agree with such submission. Hence the application is allowed and the order of cognizance dated 9.4.2009 passed by the Judicial Magistrate, 1st class, Samastipur in Complaint case No.1594 of 2007 without prejudice to either party is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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