

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 31617 of 2011

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Surendra Jha S/o Late Upendra Jha Resident of Village -
Bikrampur , P.S.- Desri (Sahdai Buzur), District - Vaishali.
.... Petitioner/s

Versus

1. The State of Bihar.
2. Md. Jahid Akhtar S/o Md. Tahir Hussain Resident of
Village - Mansurpur , P.S.- Bidupur , District - Vaishali.
.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha, Adv.
For the Opposite Party/s : Mr. Nazir Ansari (APP)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL ORDER

08. 02.02.2015

The Petitioner seeks quashing of the entire proceeding including the order of cognizance dated 05.08.2011 passed by the Judicial Magistrate, 1st Class, Vaishali at Hajipur in Complaint Case No. 93 of 2010 (Tr. No. 704 of 2011).

The case of the Complainant is that the Petitioner duped him into parting with Rs. 7,00,000/- on the pretext of giving him a job.

It has been submitted that earlier the Petitioner had filed a Complaint Case No. 3338 of 2009 against the Opposite Parties with almost similar allegations. Evidently, both the Complaints are instituted only on verbal allegations without any documentary proof which would be required during trial.

On the last occasion, adjournment was given to the parties to consider feasibility of quashing both the prosecution in the nature of dispute. However, no settlement has been made.

Considering the facts of both the Complaints, since the allegations are merely oral in nature without any substantive proof it would be a trial in nullity on which ground this Court is of the view that both the cases should be dropped.

Hence, the application is allowed and the proceeding as against all the accused persons including the order of cognizance dated 05.08.2011 passed by the Judicial Magistrate, 1st Class, Vaishali at Hajipur in Complaint Case No. 93 of 2010 (Tr. No. 704 of 2011) is, hereby, set aside.

Also, in the interest of the parties, the proceeding as against all the accused persons including the order of cognizance dated 19.04.2010 passed by the Judicial Magistrate, 1st Class, Vaishali at Hajipur in Complaint Case No. 3338 of 2009 (Tr. No. 606 of 2009) is also, hereby, set aside.

The Application stands allowed with the aforesaid observations.

(Anjana Prakash, J.)

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