

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17754 of 2011

Arising Out of PS.Case No. -1924 Year- 2007 Thana -null District- BHAGALPUR

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1. Satish Kumar Rai son of late Sobhnath Rai, resident of village Lodipr, Police Station Maner, District Patna
 2. Ranjit Singh son of Sri Pashupati Singh, resident of village Singathia, P.S. Wazirganj, District Gaya
 3. Kundan Sharma son of Sidhanath Sharma, resident of Mohalla Rajiv Nagar road no.9, P.S. Rajiv Nagar, District Patna
 4. Ajay Kumar son of Shardanand Singh, resident of village Mohammadpur, P.S. Dhanarua, District Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Shailendra Kumar Sinha son of late Harihar Prasad Sinha, resident of village Hamiapur, P.S. Mejorganj, District Sitamarhi

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar, Advocate

For the Opposite Party/s : Mr. Anil Pd. Singh, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 19-02-2015

The Petitioners seek quashing of the order of cognizance dated 17.12.2007 passed by the court of Smt. Indrani Kisku, J.M., 1st class, Bhagalpur in Complaint case No.1924C of 2007.

The case of the Complainant is that the Accused No.1 i.e. M/s Newton Construction Narain Shree Apartment is a construction company, whereas the rest of the accused were its owners, partners and engineers. Since the Complainant was eager to purchase a flat from them, he gave a cheque of Rs.21,000/- and 10,000/- in cash, the receipt of which was granted to him. On 27.4.2007 the Accused No.6 Anandi Krishna came to the house of the Complainant and asked him

to sign on the agreement. Accordingly he did so. On 8.7.2007 the Complainant handed over two Bank drafts in favour of the construction company but the accused persons refused to accept it and asked to refund his cash. On 12.7.2007 accused sent him a letter threatening to cancel the booking of the flat. Then accused persons failed to register the flat and asked for additional amount of Rs.2 lacs, upon which the present Complaint was instituted.

It has been submitted that after the Complainant failed to deposit the cost of the flats then the Petitioners were ready to refund the booking amount that had been given to the Company, but the Complainant refused it on the ground that he should be handed over the Apartment.

In the facts of the case, I would be of the opinion that at best the dispute centers around non-registration of a flat which is not a criminal offence.

Under such circumstances, the application stands allowed and the proceeding including the order of cognizance dated 17.12.2007 passed by the court of Smt. Indrani Kisku, J.M., 1st class, Bhagalpur in Complaint case No.1924C of 2007 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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