IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.2329 of 2010

Arising Out of PS.Case No. 1728 Year- 2007 Thana -null District- GOPALGANJ

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1. Sanjay Kumar
2. Ravi Shankar Prasad both S/O Laljee Mahto, R/O Vill.-Purani Chowk,Ward No.20,Gopalganj,P.S. And Dist.-Gopalganj.
3. Ashok Singh S/O Birbahadur Singh, R/O Vill.-Sareya,Ward No.3,Gopalganj,P.S.+Dist.-Gopalganj.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Suraj Prakash @ Tinku S/O Mukhalal Sah R/O Vill.- Purani Chowk,P.S.+Dist.-Gopalganj.

.... Opposite Party/s

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Appearance :
For the Petitioner/s : None
For the State : Mr. Shailendra Kr. No.2, APP
For Opposite Party No.2 : Mr. M.N. Parbat, Sr. Advocate
Mr. Arun Kr. Sinha, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL JUDGMENT
Date: 01-09-2015

No one appears on behalf of the Petitioners.

The Petitioners seek quashing of the order of cognizance dated 24.5.2008 passed by the Judicial Magistrate, 1st class, Gopalganj in Complaint case No.1728 of 2007 (Trial No.2519 of 2008), which was affirmed by order dated 27.2.2009 passed by the 1st Additional Sessions Judge, Gopalganj in Criminal Revision No.375 of 2008.

The case of the Complainant is that the Accused No.1 instituted a false Complaint against the Complainant and his father wherein he found that a forged document in favour of his father had been prepared stating therein that one Suraj Prakash alias Tinku had taken Rs.95,000/- from Accused No.1 for executing a sale deed and when it was sought to be returned an altercation took place. It was on

the basis of such allegations that the accused persons had got him and his father summoned in the case. The further narrative in the Complaint was that there was no reference with regard to the exact details of the land and there was no reason why the father would take money from the Accused.

It appears that even acceding to the allegations in the Complaint Petition no criminal offence is made out. If the Complainant has any grievance he can always set up a defence in the case filed against him.

On the other hand, the Counsel for the Complainant submits that since the accused persons had produced a forged and fabricated document in order to implicate him and his father, they should be put on trial.

Having considered this absurd situation, the application is allowed and the proceeding including the order of cognizance dated 24.5.2008 passed by the Judicial Magistrate, 1st class, Gopalganj in Complaint case No.1728 of 2007 (Trial No.2519 of 2008) as also the order dated 27.2.2009 passed by the 1st Additional Sessions Judge, Gopalganj in Criminal Revision No.375 of 2008 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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