

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18756 of 2010

Arising Out of PS.Case No. 768 Year- 2008 Thana -null District- GAYA

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1. Nawal Kishore Sharma S/O Sri Ram Charitra Sharma R/O Vill.- Karma, P.S.- Chanduti, Distt.- Gaya
2. Mahendra Prajapti S/O Late Dev Nath Prajapati R/O Vill.- Konch, P.S.- Konch, Distt.- Gaya

.... Petitioner/s

Versus

1. The State Of Bihar
2. Krishna Prasad Seth S/O Sri Murari Prasad Seth R/O Moh.- Ramna Road, P.S.- Civil Lines, Distt.- Gaya

.... Opposite Party/s

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Appearance :

For the Petitioner/s : None
For the Opposite Party/s : Mr. R.B. Roy Raman, APP
For Opposite Party No.2 : Mr. Arbind Kr. Singh, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 24-11-2015

No one appears on behalf of the Petitioners.

The Petitioners seek quashing of the order of cognizance dated 2.7.2008 passed by the Judicial Magistrate, 1st class, Gaya in Complaint case No.768 of 2008.

The case of the Complainant is that he was running a plywood factory on lease of one Manohar Sharma and in the mean while he came in contact with the Petitioner No.2, who allured him to run the factory of the Petitioner No.1 as well, which was closed for financial reasons. The Complainant undertook to do the same but later on the accused persons took the factory and also failed to return him

the money, which they had taken by way of surety.

It appears that even conceding the allegations at best a case of bad business dealing is made out. Moreover fact of the matter is that the Complainant stopped paying monthly rent for the units on account of which the Petitioners filed an Eviction Suit on 18.6.2008.

It has been submitted on behalf of the Opposite Party No.2 that it is only after the factory was forcibly taken over by the accused persons and they had failed to refund Rs.5 lacs that he had filed this present Complaint on 4.4.2009 and in order to create a defence they filed an Eviction Suit.

Having considered that evidently the case appears to be one of differences between two business partners in running the factory and there is no element of cheating, the application is allowed and the proceeding including the order of cognizance dated 2.7.2008 passed by the Judicial Magistrate, 1st class, Gaya in Complaint case No.768 of 2008 without prejudice to either party is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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