

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10810 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- KATIHAR

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1. Ramchandra Mahto, son of Baiju Mahto,
 2. Rohit Mahto @ Rohitas Mahto,
 3. Bablu Kumar Mahto, both son of Ramchandra Mahto, all r/o Nagri, P.S.- Ratu, District- Ranchi

.... Petitioner/s

Versus

1. The State of Bihar &
2. Ashok Kumar @ Ashok Kumar Chaurasia, son of late Raj Prasidh Mahto, presently residing at village- Seta Nagar, Near K. B. Jha College, Town P.S. Katihar, District- Katihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bibhuti Prasad Pandey, Sr. Advocate with
Mr. S. C. Giri, Advocate
Mr. J. Upadhyaya, Advocate

For the Opposite Party/s : Mr. J. K. Singh, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 10-02-2015

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

The Petitioners seek quashing of the order of cognizance dated 07.06.2011 passed by the Judicial Magistrate, 1st class, Katihar, in Complaint Case No.2385 of 2010.

The case of the Complainant is that between 30.11.2004 to 08.09.2005 they decided to settle in the village where he proposed to buy certain piece of land. Pursuant to an agreement between the accused persons, he issued a cheque of ₹twenty five thousand and thereafter altogether ₹one lac. However, despite payment of entire money, he did not execute the Sale Deed. It was stated in the Complaint Petition itself that he filed Title Suit No.97 of 2005 which

was pending before the Sub-Judge IV, Ranchi, for specific performance of contract.

Having considered the facts of the case, I find that evidently after the suit was dismissed on 30.04.2010, the present Complaint Petition has been filed on 16.08.2010 as a short cut method to settle the dispute which is essentially of civil nature and had been adjudicated by a court of competent jurisdiction.

Hence, the order of cognizance dated 07.06.2011 passed by the Judicial Magistrate, 1st class, Katihar, in Complaint Case No.2385 of 2010 is hereby set aside.

The application stands allowed.

(Anjana Prakash, J)

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