

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.11233 of 2012

Arising Out of Complaint Case No.2473 Year- 2010 District- SIWAN

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1. Ramyas Pathak, son of late Kamta Pathak, resident of village Pakwaliya, P.O. Machakana, P.S. Andar, Distt. Siwan.
 2. Ram Naresh Tiwari, son of late Raghunandan Tiwari @ Gurer Tiwari, resident of village Balaipur, P.S. Andar, Distt. Siwan.

.... Petitioner/s

Versus

1. The State of Bihar
2. Awadh Kishor Pathak, son of late Mukti Nath Pathak, resident of village Pakawaliya, P.S. Andar, Distt. Siwan.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. B.K.M. Tripathi, Adv.

Mr. S. Pandey, Adv.

Mr. A.K. Mishra, Adv.

For the State : Mr. Rajendra Pd. Nat, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 17-04-2015

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of cognizance dated 8.2.2012 passed by the Judicial Magistrate, 1st Class, Siwan, in Complaint Case No. C2473 of 2010.

The case of the Complainant is that the Petitioner No. 1 took the Complainant to Siwan Registry Office to offer Rs.200/- to become a witness in respect of a deed of registration of land purchased by the Petitioner No. 1. He agreed to this and gave his thumb impression. Later on, he learnt that his thumb impression had been converted to a sale deed and hence, the present Complaint.

It has been submitted on behalf of the Petitioners that the allegation made in the Complaint petition, is completely false and has been instituted only with an intention to grab the property which he had earlier sold to Petitioner No. 1. Now when he has changed his mind he does not wish to go ahead and, therefore, has instituted the present Complaint.

On the last occasion, notices had been issued to the Opposite Party No. 2 but despite service of notice upon his brother, he has chosen not to appear before this Court.

Having considered that the Complaint is based merely on oral allegations and are not corroborated by any authentic documents, the application is allowed and the Proceeding including the order of cognizance dated 8.2.2012 passed by the Judicial Magistrate, 1st Class, Siwan, in Complaint Case No. C2473 of 2010, is hereby set aside.

However, the quashment of present Proceeding shall have no bearing on any other claim.

(Anjana Prakash, J)

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