

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 42637 of 2011

Arising out of P.S. Case No. -0 Year- null Thana -null

District- PATNA

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1. Navratan Jhunjhunwala S/o Om Prakash Jhunjhunwala R/o 703, 10th A Main, Jai Nagar, 4th Floor, P.S. - Jai Nagar, Bangalore - 560011.
 2. Jeetendra Kumar S/o Shri Ravindra Prasad Singh R/o North Mandiri, P.S. - Buddha Colony, District - Patna.
 3. Mithilesh Kumar S/o Shri Ram Bharosa Prasad Singh R/o Arap, P.S. - Vikram, District - Patna.
 4. Dilip Choudhary S/o Late Piyush Kumar Choudhary R/o Manas Apartment, Flat No. - 22, Road No. - 2, Rajendra Nagar, P.S. - Kadamkuan, District - Patna. Petitioner/s

Versus

1. The State of Bihar.
 2. Rani Kumari D/o Late Rajendra Prasad R/o 327 - G, Vidhi Apartment, New Delhi (Presently Residing At Mohalla Dujra, Plot No. - 125, P.S. - Budha Colony, District - Patna.). Opposite Party/s
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Appearance :

For the Petitioner/s : Ms. Sushila Agarwal, Adv.

For the Opposite Party/s : Mr. Ram Priya Saran Singh, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 03-07-2015

The Petitioners seek quashing of the entire proceeding including the order of cognizance dated 16.07.2011 passed by the Judicial Magistrate, 1st Class, Patna in Complaint Case No. 1187(C) of 2011.

The case of the Complainant is that on the date of occurrence when she was returning home she was intercepted by the accused persons who told her that her cheque of Rs. 5,00,000/- has been traced in their office and requested her to come there to collect the same. When she went there she was made to take some intoxicated drinks on account of which she became



drowsy. Then the accused persons took her signature on some papers. She alleged that in that state she was beaten and abused and her mobile phone was snatched. She stated that Petitioner No. 1 had entered into an agreement for sale with the Complainant for which a sum of Rs. 5,00,000/- was paid as advance but the Petitioner No. 1 lodged one Complaint Case No. 289(C) of 2009 alleging that the Complainant had no title over the said land. The said Complaint was allegedly filed for the reason of extracting Rs. 5,00,000/- from her. A compromise petition was then filed in the concerned Court and in the light of agreement the Complainant handed over a post-dated cheque of Rs. 5,00,000/- dated 31.12.2010. Even though the Complainant had paid the entire amount in cash and got a receipt of the same but the accused persons made demands of return of Rs. 5,00,000/- on the basis of the cheque.

The submission of the Petitioners is that they are Directors of Company which develops land and sells apartments. On 04.09.2008, the Company had entered into an agreement with the Complainant for sale/development of the land for which she was paid a sum of Rs. 5,00,000/- in advance. However, later on they found that the land did not belong to her on account of which the Petitioner No. 1 filed a Complaint as admitted by the Complainant in which cognizance was taken.

The Complainant also gave a cheque of Rs. 5,00,000/- dated 31.12.2010 to the Company in Complaint Case No. 289(C) of 2009. However, the cheque was dishonoured and when a legal notice was sent she filed the present Complaint.

It has been submitted that in the background facts of the Complaint which are well documented, evidently, the present Complaint is fit to be set aside.

Notices had been issued to the Opposite Party No. 2 but despite service of notice she has chosen not to appear before this Court.

Having accepted the submission of the Petitioners and the documents which are unimpeachable in nature and partly admitted by the Complainant herself, the entire proceeding including the order of cognizance dated 16.07.2011 passed by the Judicial Magistrate, 1st Class, Patna in Complaint Case No. 1187(C) of 2011 is, hereby, set aside.

The Application stands allowed.

However, this order shall not prejudice any party in any manner.

Vikash/-

(Anjana Prakash, J.)

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