

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12646 of 2013

Arising Out of PS.Case No. -1976 Year- 2011 Thana -GAYA COMPLAINT CASE District- GAYA

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1. Nuzhat Hussain W/O Late Syed Wakalat Hussain Village - Deyare Wakalat Haron Nagar, Shanti Kunj, P.S. - Phulwarisharif, Distt. - Patna
 2. Syed Faisal Hussain Late Syed Wakalat Hussain Village - Deyare Wakalat Haron Nagar, Shanti Kunj, P.S. - Phulwarisharif, Distt. - Patna
 3. Md. Rashid Late Md. Mhmood Alam Ashrafi Village - Deyare Wakalat Haron Nagar, Shanti Kunj, P.S. - Phulwarisharif, Distt. - Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Md. Mazhar Yusuf, s/o. Hazi Md. Yusuf, r/o. Bara O.P. Chakand, P.S. - Chandauti, Distt. - Gaya

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N.K.Agrawal. Sr.Adv
Mr. Anujit Sinha, Adv

For the Opposite Party/s : APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

3 02-07-2015 Heard learned counsel for the petitioners.

2. The present petition has been filed for quashing the order dated 12.12.2012 passed by learned Judicial Magistrate, Gaya in connection with Complaint Case No. 1976 of 2011 by which cognizance has been taken for the offences alleged under Sections 417, 420, 468/34 of the Indian Penal Code.

3. The accusation is that the petitioners received a sum of Rs.5,00,000/- as advance money for sale of land belonging to the petitioner no. 1 which however, did not materialise and only Rs.4,00,000/- returned to the complainant out of the advance paid by him,

4. It is submitted that as a matter of fact even though according to the agreement for sale the entire amount of Rs.5,00,000/- would stand forfeited by the complainant in the event of failure of the agreement, however, as a good gesture the entire advance amount of Rs.5,00,000/- has been refunded to the complainant which was also duly acknowledged by him on 14.11.2011 (Annexure-2).

5. Despite entering appearance, none is present on behalf of the complainant when the matter is called.

6. Having regard to the entirety of the facts and circumstances and the fact that the entire amount of advance has been refunded by the petitioners and acknowledged by the complainant, this Court is of the view that no fruitful purpose will be served in continuing the prosecution against the petitioners.

7. Accordingly, the order dated 12.12.2012 passed by learned Judicial Magistrate, Gaya in connection with Complaint Case No. 1976 of 2011 is quashed.

8. The petition stands allowed.

(Vikash Jain, J)

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