

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 36534 of 2012

Arising out of P.S. Case No. -15 Year- 2009 Thana –Agam
Kuan District- PATNA

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Dilip Kumar, S/o Late Sukhdeo Prasad, R/v-Sakrigali, P.S.-
Alamganj, Distt.-Patna at present the Secretary of Central Bank of
Karmchari Swablambi Co-operative Society Limited, Patna-7.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Hira Prasad Pandey, S/o Raj Bihari Prasad Pandey (Bihar
Judiciary Services Officer) at present Swablambi Apartment-305,
Daudbigh, P.S.-Agamkuan, Kankarbagh, Distt.-Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha, Adv.

For the Opposite Party/s : Md. Sufiyan, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 19-05-2015

The Petitioner seeks quashing of the order dated
29.05.2012 passed by the Additional Sessions Judge-IV,
Patna in Cr. Rev. No. 830 of 2009 by which it has
confirmed the order dated 05.08.2009 passed by the
Additional Chief Judicial Magistrate, Patna City, Patna in
Agam Kuan P.S. Case No. 15 of 2009 by which it has
taken cognizance in the matter.

The case of the Informant is that he had entered
into an agreement with the Petitioner to purchase a
property being developed by them. However, later on the
Petitioner retracted and hence the case.

It has been submitted on behalf of the Petitioner

that even conceding the allegations in the First Information Report at best a civil dispute is made out and for non-performance of the agreement the Informant has already resorted to filing a Title Suit.

The Counsel for the Informant submits that despite an undertaking by the Petitioner before the District & Sessions Judge in the anticipatory bail in the year 2009 that he was ready to execute the sale deed or to return the money now at this later stage the Petitioner is once again making only part offer of return of money and, hence, he should be put on trial for having gone back on the undertaking.

By way of an explanation, the Petitioner submits that it was due to inaction of the Informant that no further progress could be made in the transaction in two years. It was only in the year 2011 that the sale deed with regard to the same plot was executed in favour of another. Even today the Petitioner is ready to refund the amount which the Informant had deposited with him. The Informant is not ready to accept it.

Having considered the rival submissions, I would be inclined to hold that in the facts of the case no criminal offence is made out.

Hence, the entire proceeding as against all the accused persons including the order dated 29.05.2012



passed by the Additional Sessions Judge-IV, Patna in Cr. Rev. No. 830 of 2009 by which it has confirmed the order dated 05.08.2009 passed by the Additional Chief Judicial Magistrate, Patna City, Patna in Agam Kuan P.S. Case No. 15 of 2009 is, hereby, set aside.

The application stands allowed.

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

(Anjana Prakash, J.)

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