

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 48972 of 2012

Arising out of P.S. Case No. -2402 Year- 2011 Thana –
Complaint Case District- Patna.

- =====
1. Shakuntala Devi W/o Bhuneshwar Prasad Singh Resident of Vill.- Dhandhiha, P.S.- Koilwar, Dist.- Bhojpur.
 2. Bhuneshwar Prasad Singh S/o Late Jagdeep Narayan Singh Resident of Vill.- Dhandhiha, P.S.- Koilwar, Dist.- Bhojpur.
 3. Satendra Kumar Singh S/o Bhuneshwar Prasad Singh Resident Of Vill.- Dhandhiha, P.S.- Koilwar, Dist.- Bhojpur.
 4. Dharmendra Kumar Singh S/o Bhuneshwar Prasad Singh Resident of Vill.- Dhandhiha, P.S.- Koilwar, Dist.- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar.
 2. Madan Murari Singh S/o Late Awadh Bihari Singh, Partner of M/S Awadh Developers Resident of Shivpuri, P.S.- Shastri Nagar, Dist.- Patna.
- Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Gopal Swaroop Dubey, Adv.

For the Opposite Party/s: Mr. APP.

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 22-09-2015

The Petitioners seek quashing of the order of cognizance dated 15.09.2012 passed by the Judicial Magistrate, 1st Class, Patna in Complaint Case No. 2402(C) of 2011.

The case of the Complainant is that the accused persons had entered into a development agreement with the Complainant in regard to a certain piece of property but subsequently she was of the view that the building has been constructed by the accused persons by not honouring the terms of the agreement.

It has been submitted that fact of the matter is that

the Complainant is a desperate person against whom Petitioner No. 4 had previously filed Rupaspur P.S. Case No. 129 of 2009 since he had assaulted him and his family members. It also appears that in fact development agreement had been declared null and void by the Special Judge-III, Danapur passed in Title Suit No. 131 of 2010 by an order dated 20.05.2011 and, hence, there can be no question of honouring the agreement on a subsequent date i.e. on 31.08.2011 and 01.09.2011.

On the last occasion, notices had been issued to the Opposite Party No. 2 but none appears on his behalf.

Having considered the background facts produced on behalf of the Petitioner, I would be inclined to hold that the present prosecution is malicious and deserves to be set aside.

Hence, the entire proceeding as against all the accused persons including the order of cognizance dated 15.09.2012 passed by the Judicial Magistrate, 1st Class, Patna in Complaint Case No. 2402(C) of 2011 is, hereby, set aside.

The Application stands allowed without prejudice to the right of the parties.

(Anjana Prakash, J.)

Vikash/-

U		T	
---	--	---	--