

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No. 30338 of 2012**

Arising out of P.S. Case No. -1589 Year- 2010 Thana -

Complaint District- BHABHUA (KAIMUR)

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Jaipal Singh Yadav S/o Late Sagar Yadav Resident of Village-  
Kabilaspur, P.S- Durgawati, District- Kaimur at Bhabhua.

.... .... Petitioner/s

Versus

1. The State of Bihar.

2. Bidyadhar Ram S/o Shri Ram Ram Resident of Village-  
Kabilaspur, P.S- Durgawati, District- Kaimur at Bhabhua.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Tribhuwan Narayan, Adv.

For the Opposite Party/s : Mr. M.K. Nirala, APP.

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**CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH**

ORAL JUDGMENT

**Date: 10-04-2015**

The Petitioner seeks quashing of the order dated 28.03.2012 passed by the District & Sessions Judge, Kaimur at Bhabhua in Cr. Rev. No. 105 of 2011 by which it has confirmed the order dated 11.08.2011 passed by the Chief Judicial Magistrate, Kaimur at Bhabhua in Complaint Case No. 1589 of 2010 by which it has taken cognizance in the matter.

The case of the Complainant is that despite having received consideration amount for sale of a certain piece of land the Petitioners did not execute the sale deed. Later on when he came to demand an explanation he was assaulted and abused.

The submission of the Petitioner is for the redressal of grievance of the Complainant he should have filed a suit for specific performance which the Complainant has already taken recourse by filing Title

Suit No. 443 of 2009 which is pending before the Court below. Under these circumstances, the present Complaint is superfluous.

On the other hand, Counsel for the Complainant submits that since the Petitioner had received the consideration amount and cheated the Complainant he should be put on trial.

Having considered the facts of the case, I would be inclined to hold that in the facts of the case no criminal offence is made out and the rest of the allegations with regard to assault and abuse are mere embellishments.

Hence, the entire proceeding as against all the accused persons including the order dated 28.03.2012 passed by the District & Sessions Judge, Kaimur at Bhabhua in Cr. Rev. No. 105 of 2011 by which it has confirmed the order dated 11.08.2011 passed by the Chief Judicial Magistrate, Kaimur at Bhabhua in Complaint Case No. 1589 of 2010 is, hereby, set aside.

The Application stands allowed.

However, the quashment of the present proceedings shall have no bearing on any other case.

Vikash/-

**(Anjana Prakash, J.)**

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