

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36303 of 2012

Arising Out of PS.Case No. -824 Year- 2008 Thana -null District- PATNA

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1. Most. Kaushlaya Devi, W/O Late Nandu Sharma
2. Sanjay Kumar Sharma, Son Of Late Nandu Sharma
3. Vinay Kumar Sharma, Son Of Late Nandu Sharma
4. Ajay Kumar Sharma, Son Of Late Nandu Sharma
All Resident Of Mohalla-Gabhtal, Gandhi Nagar, P.O.- Digha, P.S.-Danapur,
District-Patna

.... Petitioner/s

Versus

1. State Of Bihar.
2. Maheshwari Prasad, Son Of Late Ramdayal Rai, Resident Of Mohalla-Purani
Panapur, P.S.-Danapur (Akilpur) District-Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prabhakar Nath Rai, Adv.
For the State : Mr. Arbind Kumar Pandey, A.P.P.
For the Opposite Party No. 2 : Mr. Jitendra Kr. Roy, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL JUDGMENT
Date: 05-05-2015

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of non
discharge dated 7.6.2010 passed by the Judicial Magistrate, 1st Class,
Danapur, Patna, in Complaint Case No. 824 of 2008.

The case of the Complainant is that an agreement was
entered into between the Parties in the year 1993 for sale of a certain
piece of land. However, the sale transaction was not completed by the
Petitioners. Fifteen years later, the present Complaint was filed.

It has been submitted on behalf of the Petitioners that as

per the Complaint itself, the agreement existed for only one year and, therefore, this Complaint having been filed after such a long period is only as a short cut method used to his advantage.

On the other hand, the counsel for the Complainant submits that since the Petitioners have received a certain amount of money for sale transaction, at least they should be directed to return the same.

Considering that Criminal Court is not meant to be used as a force for settling a civil dispute, I see no merit in the prayer of the Complainant.

Also I am inclined to agree with the submission raised on behalf of the Petitioners that the Complaint has been filed for ulterior purposes.

Hence, the application is allowed and the entire Proceeding including the order of non-discharge dated 7.6.2010 passed by the Judicial Magistrate, 1st Class, Danapur, Patna, in Complaint Case No. 824 of 2008, is hereby set aside.

(Anjana Prakash, J)

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