

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.31791 of 2012

Arising Out of PS.Case No. -2352 Year- 2006 Thana -null District- JAMUI

Vipin Bihari Mishra son of late Dhananjai Mishra, resident of near Adya Urology Hospital 27E Saketpuri, P.S. Gorakhnath, District East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Vikrama Sah son of Mathura Sah, resident of village Majhaulia, P.S. Majhaulia, District West Champaran

.... Opposite Party/s

with

Criminal Miscellaneous No. 48168 of 2012

Arising Out of PS.Case No. -2352 Year- 2006 Thana -null District- -

1. Vinay Kumar Dwivedi S/O Madhusudan Dwivedi Resident Of Naugaon, P.S.- Harinagar, District- West Champaran
2. Sonu Kumar @ Navneet Kumar Dwivedi S/O Vinay Kumar Dwivedi Resident Of Naugaon, P.S.- Harinagar, District- West Champaran

.... Petitioner/s

Versus

1. The State Of Bihar
2. Vikrama Sah S/O Mathura Sah Resident Of Village- Majhaulia, P.S.- Majhaulia, District- West Champaran

.... Opposite Party/s

Appearance :

(In Cr.Misc. No. 31791 of 2012)

For the Petitioner/s : Mr. Sushmita Mishra, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

(In Cr.Misc. No. 48168 of 2012)

For the Petitioner/s : Mr. Sushmita Mishra, Advocate

For the Opposite Party/s : Mr. S. Ehtesamuddin, APP

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 30-06-2015

The Petitioners seek quashing of the order of cognizance dated 2.2.2012 passed by the Judicial Magistrate, 1st class, Bettiah in Complaint case No.2352C of 2006.

The case of the Complainant is that on the demand of the Petitioners he had given them Rs.40,000/- for procuring a job.

However, the Petitioners did not provide him a job and instead when he went to demand an explanation he was assaulted and threatened.

It has been submitted that initially the Complainant had filed Case No.8774 of 2003 which was sent to the police under Section 156(3) Cr.P.C. However, after due investigation final report was submitted in the matter with a recommendation that the Informant be dealt with under the provisions of Sections 182 and 211 I.P.C. In order to shield such an action, a protest petition was filed in which cognizance has been taken. The further submission is that when an independent agency had looked into the allegations and found the case false, the Petitioners on the verbal allegations of the Complainant should not be put on trial.

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

Having considered the background facts as also the nature of allegations, both the applications are allowed and the order of cognizance dated 2.2.2012 passed by the Judicial Magistrate, 1st class, Bettiah in Complaint case No.2352C of 2006 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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