

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12072 of 2013

Arising Out of PS.Case No. -247 Year- 2012 Thana -VAISALI COMPLAINT CASE District- -

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1. Umakant Prasad 'Nirala', S/O Bishandeo Paswan, Secretary, Scheduled Castes Cooperative Housing Construction Society, Hajipur, District- Vaishali,
 2. Arjun Bhagat, S/O Dewari Bhagat, both resident of village- Yusufpur, P.S. and Town- Hajipur, District- Vaishali

.... Petitioner/s

Versus

1. The State of Bihar
2. Raj Kishore Manjhi, S/O Bishundeo Manjhi, resident of village- Babhwaiya, P.S.- Garkha, District- Saran, presently residing at 4M/87, Bahadurpur Housing Colony, Patna- 800028

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shravan Kumar, Sr. Advocate with
Mr. Dinesh Maharaj, Advocate

For the Opposite Party/s : APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL JUDGMENT

Date: 23-02-2016

No one appears on behalf of the Opposite Party No.2.

The Petitioners seek quashing of the order of cognizance dated 01.02.2013 passed by the Judicial Magistrate, 1st class, Vaishali at Hajipur, in Complaint Case No.247 of 2012/Tr. No.4492 of 2012.

The case of the Complainant is that he had purchased certain piece of land upon which he built up a boundary wall. However, the Complainant gave huge amount to the Petitioners for purchase of additional land but the same was not delivered and the money was misappropriated.

It has been submitted on behalf of the Petitioners that after the matter was reported the police investigated into the allegation and submitted Final Report with a recommendation that the Informant be proceeded against. However, a Protest Petition was filed which was considered as Complaint and hence, the case proceeded. There are series of documents to show that the parties have already approached the Civil Court and hence, it appears that two parallel proceedings are going on for the same cause of action.

Considering the aforesaid, the order of cognizance dated 01.02.2013 passed by the Judicial Magistrate, 1st class, Vaishali at Hajipur, in Complaint Case No.247 of 2012/Tr. No.4492 of 2012 is hereby set aside.

The application stands **allowed**.

(Anjana Prakash, J)

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