

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20294 of 2010

Arising Out of PS.Case No. -0 Year- null Thana -null District- KISANGANJ

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1. Damodar Jha S/O Late Raghunandan Jha
2. Md Hasnain @ Hussnain, S/O Late Mozi Sbad Hussain, both are R/O Vill-
Bahadurganj, P.S- Bahadurganj, Distt- Kishanganj.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Narayan Jha S/O Late Raghunandan Jha R/O Vill- Bahadurganj, Near Ragistry
Office, P.S- Bahadurganj, Distt- Kishanganj.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kr. Sinha, Advocate

For the Opposite Party/s : Mr. R.B. Roy Raman, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 22-01-2016

The Petitioners seek quashing of the order of cognizance dated 23.4.2005/25.4.2005 passed by the court of Sri V.N. Prasad, Judicial Magistrate, 1st class, Kishanganj in Complaint case No.C-678 of 2004.

The case of the Complainant is that some partition document was prepared in writing and kept with the eldest brother Bhagwat Jha, who sold the land in favour of his wife by virtue of sale deed, in which Petitioner Darmodar Jha attested as a witness. Subsequently he was informed that Damodar Jha had executed a sale agreement with regard to the house in question and then sold the house even though it belonged to the Complainant.

It has been submitted on behalf of the Petitioners that Petitioner No.1 is a co-sharer of the Complainant and had got mutated the land in question and obtained rent receipts and sold the land to the wife of Petitioner No.2. The Complainant thereafter sold his portion but the dispute remained over the house. With trumped up charges he instituted the present complaint.

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

Having considered the relationship between the parties and the nature of dispute, in my opinion, no criminal offence is made out and hence the continuance of the present prosecution is a gross abuse of the process of the Court and deserves to be set aside.

Hence, the application is allowed and the proceeding including the order of cognizance dated 23.4.2005/25.4.2005 passed by the court of Sri V.N. Prasad, Judicial Magistrate, 1st class, Kishanganj in Complaint case No.C-678 of 2004 is hereby set aside without prejudice to the rights of the parties.

(Anjana Prakash, J)

Narendra/-

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