

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43260 of 2010

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

- =====
1. Smt. Madhu Singh W/o Chittaranjan Prasad Singh
 2. Chittaranjan Singh @Chittaranjan Prasad Singh son of late Sri Ram Prasad Sing.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Nripendra Narayan Ghosh S/o late Hitendra Narayan Ghosh.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 25-04-2016

The petitioners seek quashing of the entire proceeding of Complaint Case No. 1961C of 2010 including the order of cognizance dated 27.7.2010 passed by the Judicial Magistrate 1st Class, Patna.

The case of the informant is that one M/S Aquatech Engineers Pvt. Ltd entered into a development agreement with him on 7.5.2007 for development of certain piece of land according to which he was to get 42 percent and the builder was to get 58 per cent of the constructed area. Certain other clauses with regard to non completion of scheme on time and the imposition of penalty were also agreed by the parties. However, the company failed to fulfill the said clauses hence the present complaint was filed.

It has rightly been submitted on behalf of the petitioners that even conceding the allegations in the complaint petition no criminal offence is made out. Also for implementation of the agreement and the failure thereof, the complainant has filed title suit which is still pending and therefore, the present complaint does not appear maintainable.

On the other hand the complainant submits that since the petitioners have violated the terms of the agreement they should be put on trial.

Having gone through the facts of the case I am unable to convince myself that even if the argument of the Opposite Party no. 2 is accepted how it will affect the material facts stated in the complaint petition which reveals no criminal offence. Hence the application is allowed and the order of cognizance dated 27.7.2010 passed in Complaint Case No. 1961C of 2010 by the Judicial Magistrate 1st Class, Patna is hereby set aside without prejudice to the rights of the parties.

(Anjana Prakash, J)

Prakash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	3.4.2016
Transmission Date	3.4.2016