

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30412 of 2013

Arising Out of PS.Case No. -590 Year- 2010 Thana -WEST CHAMPARAN COMPLAINT District-
WESTCHAMPARAN(BETTIAH)

=====

1. Satya Narayan Rao, S/O late Shri Narayan Rao, resident of village- Englisiya,
Police Station- Chautarwa, District- West Champaran

.... Petitioner/s

Versus

1. The State pf Bihar
2. Mainuddin Ansari, S/O late Dildar Ansari, resident of village- Baswaria, Police
Station- Chautarwa, District- West Champaran

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Brij Kishor Mishra, Advocate

For the Opposite Party/s : Mr. APP

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 20-01-2017

This quashing application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 18.04.2011 passed by the Judicial Magistrate, Bagaha, West Champaran, in Trial No.2501 of 2013 arising out of Complaint Case No.590-C of 2010, by which he has taken cognizance against the petitioner under Sections 323, 341, 406 Indian Penal Code.

Heard learned counsel for the petitioner and the learned APP for the State. None has appeared on behalf of the Opposite Party No.2.

Learned counsel for the petitioner submits that nature of dispute is totally civil and the criminal proceeding is totally abuse of the process of the Court.

The learned APP has submitted that the Court below has not committed any illegality.



On perusal of the Complaint Petition, it appears that the complainant has alleged that he had paid rupees four thousand to the petitioner on 09.06.2003 for purchase of land. He made several request, but the petitioner did not execute the Sale Deed and also assaulted the complainant.

It appears from the impugned order that during enquiry, besides Solemn Affirmation of the complainant, statement of three witnesses were recorded. The Court below on the basis of these materials found *prima facie* case against the petitioner under Sections 323, 341, 406 Indian Penal Code. From the nature of allegation made in the Complaint Petition itself, this Court is of the view that the civil remedy is available to the complainant and continuance of the criminal proceeding is totally abuse of the process of Court.

Accordingly, the order of cognizance dated 18.04.2011 passed by the Judicial Magistrate, Bagaha, West Champaran, in Trial No.2501 of 2013 arising out of Complaint Case No.590-C of 2010, including the entire proceeding is hereby quashed.

The application stands allowed.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28-01-2017
Transmission Date	28-01-2017

