

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28246 of 2013

Arising Out of P.S.Case No.71 Year- 2007 Thana -MADHUBANI COMPLAINT CASE District-
MADHUBANI

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Keshav Narayan Jha @ Gopal Jha S/O Late Baidyanath Jha Permanent Resident o
Village Kasiyam, P.S. Lakhnaur, District Madhubani, Presently Working At
Extension Counter, District Education Directorate, Patna University, Patna.

.... Petitioner

Versus

1. The State of Bihar
2. Shambhu Pandit S/O Shri Saryug Pandit Resident Of Court Road, Jhanjharpur,
P.S. Jhanjharpur, District Madhubani.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Bimal Kumar Jha, Advocate

For the Opposite Parties : Mr. Anil Kumar Singh No.1, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 10-10-2017

This criminal miscellaneous application under Section 482
of the Cr.P.C. has been filed to quash the order dated 23.09.2008
passed by Judicial Magistrate, Ist Class in Complaint Case No.71 of
2007 (Trial No.2374 of 2008) whereby and whereunder the learned
Magistrate took cognizance for the offence under Sections 417 and
504 of the IPC against the petitioner.

2. Heard learned counsel for the petitioner and learned APP
for the State. The Opposite Party No.2 in spite of service of notice did
not appear to oppose this application.

3. After hearing both sides and on perusal of documents on
record, I find that the Opposite Party No.2 and petitioner entered into



an agreement for construction of house. The complainant Opposite Party No.2 claims that a sum of Rs.5787/- fell due against the petitioner for the construction work done by the Opposite Party No.2. It further appears that there are contradictions in the statement of the witnesses and complainant on the point of dues amount. Some of the witnesses have stated that the complainant is a contractor under whom they had worked. I further find that there is absolutely no allegation of abusing against the petitioner. None of the witnesses has stated that the petitioner had abused the complainant. The nature of dispute between the parties appears to be of a civil which can be adjudicated only after assessing the work performed by complainant.

4. The criminal prosecution of this petitioner in the light of above discussions appears to be abuse of the process of the Court. As such, this application is allowed and order dated 23.09.2008 taking cognizance is hereby quashed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	12.10.2017
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