

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17805 of 2014

Arising Out of PS.Case No. -29 Year- 2009 Thana -SHRIKRISHNAPURI District- PATNA

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1. Rahbar Abdin S/o Sarwar Abdin
2. Sarwar Abdin S/o Late Abdul Abdin All resident of Flat no. 405, Pushpanjali Complex, P.S. S.K. Puri, Boring Road, Patna.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Ashok Khandelia S/o Sri Deoki Nandan Khandelia R/o Sagarmal chowk, Khagaria, P.S- town & Distt- Khagaria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Saket Tewary, Adv.
For the State : Dr. Rabindra Kumar, APP.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 01-11-2017

Heard learned counsel for petitioners and learned counsel appearing for opposite party No. 2.

This petition has been filed for quashing the order dated 16-01-2010 passed in S.K. Puri P.S. Case No. 29 of 2009 by which and whereunder, the learned Magistrate after inquiry u/S 202 of the Cr. P.C. found prima facie case against the petitioners for the offence under Sections-323, 341, 427, 504, 506/34 of the Indian Penal Code.

Counsel for the petitioners has submitted that these petitioners are family members of the land owner. Petitioner No. 1 is brother in law of the land owner of the building namely, Pushpanjali Complex and petitioner No. 2 is father of petitioner No. 1. It has



further been submitted that instant dispute relates between the business associate (opposite party No. 2) and the land owner of the complex. The police has without any sufficient material, submitted charge sheet and the court below without applying its judicial mind took cognizance against the petitioners and other accused persons. It has further been submitted that criminal proceeding against other co-accused of this case with similar allegation has been quashed by a coordinate bench of this court vide order dated 14-07-2017 passed in Cr. Misc. No. 19980 of 2014.

It has further been submitted that now good sense has prevailed between the parties and amicable settlement has been arrived at between them. Counsel for the petitioners has submitted that pursuant to series of litigation between the land owner of Pushpanjali complex and the business associate opposite party No. 2 m/s Kanodia Developers Pvt. Ltd. the latter approached this Hon'ble Court vide Request Case No. 61 of 2007 with a prayer for appointment of an arbitrator for resolution of the disputes pending among them. The said request Case came to be allowed by this Hon'ble Court resulting in appointment of Hon'ble Justice Dharmpal Sinha to be the arbitrator in the matter of dispute between the said parties.

In such circumstances, this court is of the view that



continuance of criminal prosecution against these petitioners in this case is nothing but mere harassment of the petitioners and an abuse of the process of the court. This court finds that the impugned order is not in accordance with law.

Accordingly, the impugned order dated 16-01-2010 passed in S.K. Puri P.S. Case No. 29 of 2009 along with entire criminal proceeding with respect to the petitioners is quashed.

This Cr. Misc. Application is *allowed*.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06-11-2017
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