

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.17645 of 2014**

Arising Out of PS.Case No. -689 Year- 2009 Thana -PATNA COMPLAINT CASE District-  
PATNA

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1. Rahbar Abdin S/o Sarwar Abdin  
2. Sarwar Abdin S/o Late Moinul Abdin All residents of Flat No. 405, Pushpanjali  
Complex, P.S. S.K. Puri, Boring Road, Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Saket Tewary, Advocate

For the Opposite Party No. 2 : Mr. Md. Abu Sajjad, Adv.

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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 21-05-  
2009 passed in Complaint Case No. 689 C 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-451, 417, 427, 504 and 506  
of the Indian Penal Code.

Counsel for the petitioners has submitted that petitioner No. 1  
happens to be brother in law of land owner of the building namely Pushpanjali  
Complex and petitioner No. 2 is father of petitioner No. 1. They have nothing to  
do with the occurrence alleged in the complaint petition. Counsel for the  
complainant has appeared. He has submitted that now, the matter has amicably  
been settled between the land owner and the developer.



In the instant complaint case, the dispute arose between the land owner (accused No. 1), developer (complainant) and accused No. 3 with regard to share of some portion of the flat as mentioned in paragraph-7 of the complaint petition. In that paragraph, it is mentioned that these petitioners are the family members of the land owner and no any specific allegation of overt act has been made against these petitioners.

From the impugned order, it appears that the learned Magistrate has after recording the statement of witnesses during inquiry u/S 202 of the Cr.P.C. found prima facie case against these petitioners also along with other accused persons for the offence under Sections-451, 417, 427, 504 and 506 of the Indian Penal Code.

In such circumstances, this court finds that continuance of prosecution against these petitioners in this case is nothing but mere harassment to the petitioners. This court finds that the impugned order is not in accordance with law.

Accordingly, the impugned order dated 21-05-2009 passed in Complaint Case No. 689 C 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./-

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