

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.52170 of 2014

Arising Out of PS.Case No. -1356 Year- 2011 Thana -MADHUBANI COMPLAINT CASE District-
MADHUBANI

- =====
1. Bhagwan Jee Jha S/o Shri Mahendra Jha
 2. Satish Kumar Jha S/o Bhagwan Jee Jha Both are residents of village - Bhat Simar, P.O. & P.S. Raj Nagar, District - Madhubani.

.... Petitioners

Versus

1. The State of Bihar.
2. Asharfi Ram S/o Late Jibu Ram resident of village - Bhat Simar, P.O. & P.S. Raj Nagar, District - Madhubani.

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Bimal Kumar Jha, Advocate

For the State : Mr. Dasrath Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 22-11-2017

Heard learned counsel for the petitioners and the learned
Additional Public Prosecutor appearing on behalf of the State.

2. Learned counsel for the petitioners submits that since the court has disbelieved that there was any entrustment of money with the complainant and, therefore, has not taken cognizance under Section 406 of the Indian Penal Code as well as under Section 3(X) of the S.C./S.T. Act, so there was no occasion for taking cognizance under Sections 341, 323, 379, 504 and 34 of the Indian Penal Code and the same is ruled out.

3. However, the allegation is that the complainant had given an advance of Rs.1,00,000/- to petitioner no.1 for executing a sale deed of a land but the same was not executed and when the



complainant went to his house for persuading him to execute the sale deed then he was abused and assaulted.

4. The contention of the learned counsel for the petitioners is not acceptable that in case of not taking cognizance under Section 406 of the Indian Penal Code, no ingredient of other offence is made out whereas it is otherwise. The court has rightly not taken cognizance under Section 406 of the Indian Penal Code as it is not a case of any entrustment over property or dominion over property rather pursuant to oral agreement, money was given for executing a sale deed. Subsequently the allegation of assault and others have taken place as disclosed from the complaint, so there is nothing to intervene in the cognizance.

5. The quashing petition stands dismissed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
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