

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49239 of 2014

Arising Out of PS. Case No.-1193 Year-2010 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Manoj Kumar Son of Late Baidyanath Sharma Resident of Vaishali Sadan, Rai Jaikrishana Road, Gurhatta, P. S. - Khajekalan, Patna City. District- Patna.
 2. M/s. Manali Constructions & Engineers Private Limited Through its Managing Director Manoj Kumar. having its Registered Office at 212, 2nd Floor Adison Arcade, Fraser Road, P.S. - Gandhi Maidan, District - Patna,

... .. Petitioner/s

Versus

1. The State of Bihar
2. Dr. Prem Raj Singh, Secretary, Page Apartment, Flat Owner's Association through Dr. Prem Raj Singh Son of Sri Shyam Raj Singh, Secretary, R/o Flat No. B-3, 3rd Floor, Page Apartment, New Yarpur, Road No.1 Gardanibag, Flat Owner's Association, Resident of New Yarpur , Road No.1 P.S.- Gardanibagh, District - Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar, Advocate
For the Opposite Party No.1	:	Mr. Bhanu Pratap Singh (APP)
For the Opposite Party No.2	:	Mr. Aditya Nr. Singh- I, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL ORDER

- 3 23-03-2018 Having heard learned counsel for the parties, I am of the considered view that in the matter of breach of an agreement for construction and allotment of a flat after similar complaints were dismissed by the District Consumer Dispute Redressal Forum, no case is made out for taking cognizance in a complaint case for offence under Section 420 of the Indian Penal Code, instead in case, the complainant feels that there is breach of the agreement in construction of the flat and granting possession, the complainant may take recourse to take such statutory



remedy as are available in law, namely the Real Estate (Regulation and Development) Act, 2016 or any other statutory provision, but on the said ground, prosecution for the offence under Section 420 of the Indian Penal Code having not been made out, the application is allowed and the criminal proceedings bearing Complaint Case No.1193 (C) of 2010 pending before the Court of Judicial Magistrate 1st Class, Patna is quashed.

(Rajendra Menon, CJ)

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