

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.3505 of 2016

Arising Out of PS.Case No. -721 Year- 2013 Thana -WEST CHAMPARAN COMPLAINT District-
WESTCHAMPARAN(BETTIAH)

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1. Pandit Yadav son of late Baijnath Yadav Resident of Village - Damrapur, P.S.
Manpur, District - West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Pappu Kumar Barnwal son of Raj Kumar Barnwal Resident of Mohalla - New
Marwari Muhalla Narkatiaganj, P.S. - Shikarpur, District - West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Sushmita Mishra

For the Opposite Party/s : Mr. Jharkhandi Upadhyay (APP)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 18-09-2018

Notice upon O.P. No. 2 has been validly served but
none appeared on behalf of O.P. No. 2 although his name is appearing
in cause list.

The petitioner seeks quashing the order dated
16.01.2014 passed by the learned Sub Judge VI-cum-A.C.J.M.,
Bettiah in Complaint Case No. 721(C) of 2013, whereby *prima facie*
case has been found against the petitioner for the offence under
Section 406 of the Indian Penal Code.

Learned counsel for the petitioner has submitted that
this is a matter of purely civil dispute. There is no any chit of paper
regarding payment of money to the petitioner by the complainant.



In the complaint petition, it is alleged that petitioner took Rs. 3, 33, 500/- on credit from the complainant in presence of witnesses and executed a paper with regard to receipt of such money and also gave certified copy of sale deed of his land to the complainant. It is further alleged that when petitioner did not return aforesaid amount, the complainant went to the house of petitioner on 02.04.2011 for demanding his money, but the petitioner took two months more time with assurance to return the same till December, 2012. Even then the petitioner did not return money. Thereafter legal notice was served on 17.01.2013, but no response was taken by the petitioner and Panchayati was also held to which petitioner did not agree and abused and assaulted the complainant.

From entire complaint petition, it appears that there is no any chit of paper filed by the complainant for giving amount on credit to the petitioner. From the complaint petition itself, it appears that civil remedy is available to the complainant for his grievance.

Therefore, impugned order passed by the court below is not in accordance with law.

Accordingly, the impugned order dated 16.01.2014 passed by learned Sub Judge VI-cum-A.C.J.M., Bettiah in Complaint Case No. 721 (C) of 2013 along with entire criminal proceeding against the petitioner is hereby quashed.



This Criminal Miscellaneous is accordingly allowed.

(Sanjay Priya, J.)

Rakhi

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CAV DATE	N.A.
Uploading Date	
Transmission Date	

