

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6384 of 2019

Arising Out of PS. Case No.-81 Year-2016 Thana- MADHEPURA COMPALINT CASE
District- Madhepura

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1. Shyama Devi @ Srimati Shyama Devi and Ors W/o Jay Narayan Mandal Resident of Village - Bhirkhi Dakshinbari, Ward No. 22, Madhepura, P.S.- Madhepura, Distt.- Madhepura, Permanent Address of Village - Kushaha, P.S.- Kishanpur, District- Supaul
 2. Jay Narayan Mandal Son of Late Surya Narayan Mandal Resident of Village - Bhirkhi Dakshinbari, Ward No. 22, Madhepura, P.S.- Madhepura, Dist.- Madhepura, Permanent Address of Village - Kushaha, P.S.-Kishanpur, District-Supaul
 3. Devesh Kumar Resident of Village - Bhirkhi Dakshinbari, Ward No. 22, Madhepura, P.S.- Madhepura, Dist.- Madhepura, Permanent Address of Village - Kushaha, P.S.-Kishanpur, District-Supaul
 4. Bhushan Kumar @ Jayant Kumar Son of Jay Narayan Mandal Resident of Village - Bhirkhi Dakshinbari, Ward No. 22, Madhepura, P.S.- Madhepura, Dist.- Madhepura, Permanent Address of Village - Kushaha, P.S.-Kishanpur, District-Supaul

... .. Petitioner/s

Versus

1. State of Bihar
2. Kishore Kumar Jha Son of Digambar Jha Resident of Village - Hariraha, P.S. Shankarpur, Dist.- Madhepura

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nafisuzzoha
For the Opposite Party/s : Mr. Satyendra Prasad

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 22-01-2026 Heard the parties including the learned counsel for the complainant.

2. This application has been filed on behalf of the petitioners for quashing the order dated 25.01.2018 passed by the learned Judicial Magistrate-1st Class-cum-Principal Magistrate, Madhepura in connection with Complaint Case No.



81 of 2016 / CIS No. 81 of 2016.

3. As per the prosecution case, the petitioners sold a land to the complainant by with a promise that they will hand over the possession of the same after execution of the sale deed but after execution of the sale deed the petitioners did not gave the possession of the same to the complainant and threatened him.

4. From the perusal of the earlier order dated 25.07.2024, it appears that the petitioner no. 1 and 2 have died during the pendency of this application and therefore, this application is dismissed as withdrawn with respect to them as having become infructuous.

5. So far as petitioner no. 3 and 4 are concerned, they are sons of the vendor of the complainant and it appears to be a civil dispute which is given colour of a criminal case.

6. In view of the above, this Court is of the view that the present prosecution is a malafide one which cannot be allowed to continue in view of the judgment of the Hon'ble Supreme Court in the case of *State of Haryana Vs. Bhajanlal reported in 1992 Supp (1) SCC 335*.

7. Accordingly, this application is allowed with regard to petitioner nos. 3 and 4 and the order dated 25.01.2018 passed



by the learned Judicial Magistrate-1st Class-cum-Principal Magistrate, Madhepura in connection with Complaint Case No. 81 of 2016 / CIS No. 81 of 2016, is hereby quashed with regard to the petitioner nos. 3 and 4.

8. However, the complainant is given liberty to file an appropriate application in the court below with regard to the present dispute.

(Sandeep Kumar, J)

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