

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1170 of 2012

Arising Out of PS.Case No. -631 Year- 2008 Thana -null District- SASARAM (ROHTAS)

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1. Bajinath Sharma @ Sukhari Sharma, S/O Late Bhekhraj Sharma, R/O Village - Tenduni, Police Station - Bikramganj, District - Rohtas

.... Petitioner/s

Versus

1. The State of Bihar,
2. Radheshyam Sharma, S/O Late Kailash Sharma, R/O Village - Tendua, Police Station - Sanjhauli, District - Rohtas at present residing at Sasaram Road Bikramganj, Police Station - Bikramganj, District - Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Bihari Singh, Advocate

For the Respondent/s : Dr. Indihar Kumari, APP

Mr. Rajanikant Singh, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 09-03-2015

1. Despite the direction to the Opposite Party No.2 on 19.02.2015 for filing Supplementary Affidavit bringing on record Sale Deed or such document to show that there was financial transaction between the parties, no such Supplementary Affidavit has been filed.

2. The Petitioner seeks quashing of the order of non-discharge dated 08.10.2012 passed by the Judicial Magistrate, 1st class, Bikramganj, Rohtas, in Complaint Case No.631 of 2008/Tr. No.1446 of 2012.

3. The case of the Complainant is that he was approached by the Petitioner that he was in need of some money and asked him to purchase his land for which there was agreement. The

Petitioner is said to have paid a sum of ₹One lac but despite the agreement no Sale Deed was executed.

4. It has been submitted that fact of the matter is that mother of the Petitioner was given ₹Seven thousand by the Complainant as advance for execution of the Sale Deed. However, when the Complainant failed to make payment of rest of the amount i.e. ₹Ninety three thousand as agreed between them, naturally, Sale Deed was not executed.

5. On the other hand, counsel for the Complainant submits that since he was cheated by the Petitioner, he should be put on trial.

6. Having considered the facts narrated above, I am inclined to hold that entire allegation being oral in nature is fit to be set aside.

7. Accordingly, the order dated 08.10.2012 passed by the Judicial Magistrate, 1st class, Bikramganj, Rohtas, in Complaint Case No.631 of 2008/Tr. No.1446 of 2012, is hereby set aside.

8. The application stands allowed.

(Anjana Prakash, J)

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