

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34275 of 2012

Arising Out of PS.Case No. -24 Year- 2009 Thana -null District- PATNA

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1. Ashok Kumar Sharan S/O Late Nand Kishore Sharan, Resident Of Flat No. 201/204, Vijaya Heights, Vijayapuram, Seepat Road, Bilashpur, P.S. - Sarkanda, District - Bilashpur (Chhattisgarh)

.... Petitioner/s

Versus

1. The State Of Bihar
2. Smt. Meena Devi W/O Sri Gajendra Singh, Resident Of D/63, Rajesh Path, P.S. - S.K. Puri, District - Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyabrat Verma, Advocate

For the Opposite Party/s : Smt. Anita Kumari, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 20-04-2015

The Petitioner seeks quashing of the order dated 19.5.2012 passed by the Additional Sessions Judge IX, Patna in Criminal Revision No.500 of 2011, by which he has affirmed the order dated 10.5.2011 passed by the Judicial Magistrate, Patna in S.K. Puri P.S. case No.24 of 2009, by which he has refused to discharge the Petitioner.

Notices had been issued to the Opposite Party No.2 but none appears on her behalf.

The case of the Informant is that she was approached by the Petitioner, who informed her that he wanted to sell his land in S.K. Puri which was free from all encumbrances. She then occupied the



house but later one Prem Shankar Rai started to disturb her possession on the ground that he had purchased the house from the Petitioner. When she enquired from the Petitioner, he denied having sold the house to him. She then gave a written report to the Officer Incharge of S.K. Puri P.S. on 17.3.2007 with regard to the action of Prem Shankar Rai. The Informant further alleged that the Petitioner kept delaying the registration of the house and later she learnt that he had entered into an agreement for sale of the house to Prem Shankar Rai, who had also instituted S.K. Puri P.S. case No.59 of 2007 against the Petitioner. When she enquired about the aforesaid, he replied that he returned the advance amount to Prem Shankar Rai in December, 2008. Then she learnt that the case filed by Prem Shankar Rai was still pending. She thus alleged that neither was the Petitioner going ahead with the registration of the sale deed nor returning her money.

It has been submitted on behalf of the Petitioner that there is no doubt that he had intended to sell the house and had entered into an agreement with Prem Shankar Rai on certain terms. However, Prem Shankar Rai defaulted in terms of the agreement and hence he once again entered into an agreement for sale with the Informant. The land was hence sold to the Informant on certain consideration amount. For some reason or the other the sale deed was not registered, in course of which he received the legal notice from the Informant, to

which he replied that he was ready to perform his part. Even though the Informant had not paid the entire consideration amount within the stipulated period as gesture of good will he extended the time, but thereafter she filed the First Information Report. It has further been submitted that evidently in the facts of the case no criminal offence is made out and at best the remedy for the Informant was to file suit for specific performance. Fact of the matter is that the Petitioner had returned Rs.4,40,000/- which he had received as advance money from the Informant, despite which she had instituted the present First Information Report in order to grab the property.

Having considered the aforesaid facts, the application stands allowed and the proceeding including the order dated 19.5.2012 passed by the Additional Sessions Judge IX, Patna in Criminal Revision No.500 of 2011 as also the order dated 10.5.2011 passed by the Judicial Magistrate, Patna in S.K. Puri P.S. case No.24 of 2009 is hereby set aside.

However, this order shall not prejudice any party in any manner.

(Anjana Prakash, J)

Narendra/-

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