

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32045 of 2013

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Shashi Kant Paswan Son of Ganga Paswan Resident of Village - Sahasram,
 Police Station - Biraul, District – Darbhanga.

.... Petitioner

Versus

1. The State of Bihar.
2. Sanjeev Kumar Mishra Son of Sashi Chandra Mishra Resident of New Colony, Khajasarai, P.S.- Laheriasarai, District - Darbhanga
3. Gokulanand Mishra Son of Late Yasodhar Mishra Resident of Mohalla - Balbhadrapur, P.S.- Laheriasarai, District – Darbhanga.
4. Sri K.D. Singh ,Son of Not Known A.S.I., Biraul, P.S.- Darbhanga

.... Opposite Parties.

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Appearance :

For the Petitioner : Mr. Satish Chandra Jha
 For the Opposite Parties : Mr. Sanjay Kr.Tiwary(App)

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

3 01-04-2016 Heard learned counsel for the petitioner and learned
 counsel for the State.

This is an application for quashing the order dated 12.04.2013 passed by the Additional Sessions Judge, Benipur in Criminal Revision No. 65 of 2012 by which he has affirmed the order dismissing the complaint passed by Shri P. K. Srivastav, Judicial Magistrate 1st Class, Biraul at Benipur in Misc. Case No. 14 of 2012/C.R. No. 20 of 2012.

The case of the complainant(petitioner) that he was entered into a contract for purchase of mango trees stands on the land of Sanjeev Kumar Mishra for consideration money of Rs.



62,500/-. Further case is that an agreement was made to pay Rs.10,000/- per month to see and supervision the land. Further case is that on the assurance of accused persons, the complainant engaged 242 labourers for constructing the boundary wall for which cost comes to Rs. 48,400/- for the period of 31.01.2011 to 20.02.2011 and its maintenance cost of Rs. 70,000/- which was agreed to be given and Rs. 10,000/- per month, but the said amount was not given to the complainant. Further case is that opposite party no. 2 cut the trees amounting to Rs. 1,25,000/- but the said amount also not given to the complainant and in this manner total amount comes to Rs.2,43,400 which was not paid to the complainant but only paid Rs. 48,400/- thus rest amount of Rs. 1,95,000/- was due. It is alleged that when the complainant demanded money, then the accused persons abused and assaulted by taking his caste name by which the complainant reported the matter to the D.I.G., Darbhanga and the matter was handed over to S.I., Biraul. It is also alleged that S.I. of Biraul P.S. in collusion with the accused persons took Rs. 5000/- as bribe for his release and accused persons also snatched Rs. 500/- and mobile of Rs. 1,000/-

Learned Additional Sessions Judge, Benipur during enquiry found that allegation made in the complaint itself totally



false and it is absurd when the accused person will purchase the land at the cost of Rs.62,500/- and again the complainant purchase the same at the cost of Rs.1,25,000/- is totally unbelievable and held that there is no ground to allow the criminal revision and hence dismissed the criminal revision as well as affirming the order of Judicial Magistrate, Biraul at Benipur held that prosecution has not been able to prove the case prima facie.

Learned counsel for the petitioner however contends that allegation made in the complaint supported by the witnesses and question raised whether allegation is true or false is required to be tested at the trial.

However, going into the question raised it is apparent that basically the matter concern with agreement of sale of trees at the cost of Rs. 62,500/- and matter is simply with regard to breach of agreement for purchase and sale of land which is civil consequence and civil dispute and allegation of assault, abused and snatched Rs. 500/- from the pocket of the complainant is totally absurd.

Having regard to the fact allegation made in the complaint in the first part which is civil litigation of purchase and sale of land and later part of allegation of abuse and assault is totally repayment to normal common sense and hence, I do not

find any merit to interfere with the order impugned accordingly,
the same is dismissed.

However, the petitioner may have liberty to go into civil
litigation.

m.p.

(Gopal Prasad, J)

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