

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49704 of 2013

Arising Out of PS.Case No. -151 Year- 2013 Thana -ALAMGANJ District- PATNA

1. Praveen Kumar S/O Late Kisto Prasad @ Kisko Prasad Resident Of Mohalla- Gurhatta, Police Station- Khajekala, District- Patna.

2. Anand Kumar S/O Late Kisto Prasad @ Kisko Prasad Resident Of Mohalla- Gurhatta, Police Station- Khajekala, District- Patna.

.... Petitioner/s

Versus

1. The State Of Bihar

2. Satish Kumar S/O Chamru Sah Resident Of Mohalla Chaili Tol, Police Station- Alamganj, District- Patna.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pravin Kumar

For the Opposite Party/s : Mr. Najir Ansari (App)

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI

SHARAN SINGH

ORAL ORDER

4 06-04-2016

This application has been filed seeking quashing of the First Information Report of Alamganj Police Station Case No. 151 of 2013, disclosing offences punishable under Sections 419, 420, 406/34 of the Indian Penal Code and all subsequent proceeding(s) arising out of the said case, invoking Section 482 of the Code of Criminal Procedure, 1973.

I have heard Mr. Anil Kumar Singh, learned Counsel for the petitioners and Mr. Nazir Ansari, appearing on behalf of the State. I have also heard Mr. Raj Kishore Prasad, learned Counsel, representing the informant- Opposite Party No. 2.



It transpires from the First Information Report that the informant-Opposite Party No. 2 has alleged that the petitioners had executed an agreement for sale on 28.03.2011 with respect to an immovable property of 1445 sq. ft., in Circle No. 131, Holding No. 53/45. It is the case of the informant-Opposite Party No. 2 that he had paid a sum of Rs. 6,00,000/- and remaining Rs. 4,00,000/- was to be paid at the time of execution of the sale deed in terms of the agreement for sale. Allegation is that subsequently the petitioners refused to execute sale deed in terms of the agreement for sale.

Learned Counsel for the petitioners has submitted that it is purely a civil dispute and filing of the present criminal case is an abuse of the process of the Court. It has been stated in paragraph 9 of this application that the informant-Opposite Party No. 2 has filed Title Suit No. 265 of 2011 before the Court of learned Sub Judge I, Patna City, Patna, which is still pending. He has submitted that no offence under Sections 419, 420, 406/34 of the Indian Penal Code is made out as there is no allegation in the First Information Report that from the very inception, the petitioners had any intention to cheat the informant.

Learned Counsel appearing on behalf of the informant-Opposite Party No. 2 has submitted that the

police, upon completion of investigation, have already submitted charge sheet and, therefore, the present application seeking quashing of the First Information Report has become infructuous. He has also submitted that the Court of learned Additional Chief Judicial Magistrate, Patna City, Patna, has already taken cognizance.

Considering the allegations as contained in the First Information Report, I am satisfied that the submissions advanced on behalf of the petitioners that this dispute is of purely civil nature between the petitioners and the informant-Opposite Party No. 2 for execution of an agreement of sale. There is no allegation that from the very inception of the said agreement for sale, the petitioners had any intention to defraud the informant. In such circumstance, institution of the present case after filing of the title suit is, in my opinion, an abuse of the process of Court.

This application is accordingly allowed. The First Information Report of Alamganj Police Station Case No. 151 of 2013 and all proceedings arising out of the same are quashed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

U	✓	T	✓
---	---	---	---

