

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.56388 of 2015

Arising Out of PS.Case No. -195 Year- 2015 Thana -WEST CHAMPARAN COMPLAINT
District- WEST CHAMPARAN(BETTIAH)

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Binay Kumar, S/O Krishna Kant Prasad, Resident of Mohalla- Purani
Gudari, P.S.- Bettiah Town, District- West Champaran

.... Petitioner/s

Versus

1. The State of Bihar

2. Sharda Singh @ Munni Devi, W/o Gyan Singh, D/O Bishwanath Prasad,
Resident of Mohalla- Purani Gudari, P.S.- Bettiah Town, District- West
Champaran. Presently residing at H/No. 37/148, Gilis Bazar, Shiwala Road,
P.S.- Kotwali, District- Kanpur Town (U.P.)

.... Opposite Party/s

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Appearance :

For the Petitioner : Mr. Sanjeev Kumar, Advocate

For the State : Mr. Bharat Bhushan(APP)

For O.P. No.2 : Mr. Bimlesh Kumar Pandey, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

11 04-08-2016

Heard learned counsel for the petitioner and the
learned counsel for the State.

The petitioner is apprehending his arrest in connection
with Complaint Case No.195-C of 2015 for allegedly having
committed the offence under Section 420 of the Indian Penal
Code.

The allegation against the petitioner is that the
petitioner and co-accused Daya Shankar Prasad negotiated with
the complainant for selling of paternal property and
consideration money was decided at Rs.85,27,000/-. As per the
complaint petition, Rs.6,00,000/- was given in advance through
Bank draft and an agreement was made between them. It has



further been alleged that co-accused Daya Shankar Prasad got executed deed of relinquishment from the complainant of her paternal property and handed over four demand drafts of Rs.27,00,000/, but payment of the said drafts was not made. Thereafter, the complainant came to Bettiah and inquired about the matter and learnt that the petitioner and co-accused Daya Shankar Prasad (full brother of the complainant) got prepared said drafts and handed over the same to the complainant on 8.11.2014 and thereafter, on 10.11.2014 filed a *Sanaha* with regard to the missing of such draft and on that basis, they got the said draft cancelled from the issuing Branch. In this way, the petitioner and co-accused Daya Shanakar Prasad under a planned conspiracy have cheated the complainant. It is on the basis of such complaint, that the petitioner is presently facing prosecution.

Learned counsel for the petitioner submits that though the demand drafts were prepared and handed over to the brother of the complainant as the price money for the land, which was agreed upon to be sold to the petitioner, the brother of the complainant instead of having the land executed in his favour, got a deed of *Ladavinama* prepared in favour of himself and, thus, the petitioner was constrained to move and get the



aforementioned draft cancelled. It is, thus, submitted that the petitioner was in no way in conspiracy with the brother of the complainant. Furthermore, after the said case was filed, the complainant as well as the brother of the complainant entered into a compromise, whereby the brother has returned a sum of Rs.27,00,000/- to the sister and on the said basis, he was granted the benefit of pre-arrest bail.

Learned counsel for the petitioner, thus, submitted that now the matter has been resolved between the complainant and her brother, who was intermediary for any transaction to have been entered into between the petitioner and the lady (complainant), there remains no further case as the draft had been prepared from the Cash Credit Account of the petitioner and not from any money received either from the brother or the complainant. In order to establish the same, the petitioner has brought on record the cash credit statement, which forms Annexure 6 to the supplementary affidavit.

Having heard learned counsel for the petitioner and also the learned counsel for O.P. No.2 (complainant), it appears that there were some negotiations between the parties for sale and purchase of the land. The said transaction having failed, it appears that the complainant has taken recourse to the present

litigation for redressal of her grievance. Furthermore, there being a compromise between the brother and sister, no further case is made out against the present petitioner, as submitted by the petitioner.

In view of the aforementioned facts and circumstances, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bond of ₹10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, West Champaran at Bettiah, in connection with Complaint Case No.195-C of 2015, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

However, it is open to the parties to contest the matter in the court below and/or negotiate further.

(Anjana Mishra, J)

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