

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21659 of 2013

Arising Out of PS.Case No. -1735 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Mr. Arun Kumar Shukla S/O Late Ram Chandra Prasad Shukla C/O
Manish Medical Hall, Hospital Road, Hajipur, Vaishali Petitioner
Versus

1. The State Of Bihar
2. Swami Nath Mishra, Mahatma Gandhi Nagar Gali, Opposite Anjali Gas
Agency, Kankerbagh, Patna 900 0020 Opposite Parties

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Appearance :

For the Petitioner : Mr. Dayanand Singh, Adv.
For the Opposite Party : Mr. S.D.Singh Yadav (App)

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

3 29-02-2016 Heard the learned counsel for the petitioner and the
State.

This is a petition for quashing the order, dated 04.09.2012, by which the complaint has been dismissed under Section 203 of the Criminal Procedure Code after enquiry and holding that the complainant has not produced a single document making payment to the accused.

The complainant is the son-in-law of the accused and it is alleged that the accused has agreed to sell his land in favour of the complainant-petitioner and original paper of land was handed over to the complainant, but, evading execution of the deed and even refused to pay back money and during the enquiry the complainant examined on solemn affirmation and his wife also examined and note of acceptance of the money has also been proved alleged to have been written by the wife of the accused. However, the wife of the accused has not been examined and the Court below has dismissed the complaint on two grounds that the note can not be relied upon and the last payment alleged in the year 1999 and this complaint has been filed after lapse of 12 years.

The learned counsel for the petitioner, however, contends that there is prima facie evidence about the contract to

sell.

The trial Court taking into consideration that no single document produced indicating payment of money by the accused and taking into consideration the relationship hold that there is no sufficient ground for proceeding and dismissed the complaint.

Having regard to the fact that the matter concerned with the complaint and breach of contract, hence, the allegation made also makes out a civil consequence, I do not find any merit in the petition.

This petition is **dismissed**.

(Gopal Prasad, J)

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