

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27933 of 2016

Arising Out of PS.Case No. -1417 Year- 2004 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

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Suresh Singh son of Late Hari Singh resident of Village- Kamlakant
Kararia, P.S. Fulwaria, District- Gopalganj

.... Petitioner

Versus

1. The State of Bihar
2. Dudh Nath Singh Son of Keshwar Singh resident of Village- Kamlakant
Kararia, P.S. Fulwaria, District- Gopalganj

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Rajesh Roy, Advocate.

For the Opposite Parties : Smt. Reena Sinha

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 24-08-2016 Heard Dr. Amrendra Kumar, learned counsel for the

petitioner and the learned APP.

The petitioner has filed this petition for quashing the
order dated 02.11.2007 passed in Trial No. 1067 of 2008 by which
prima facie case under Section 420 of the Indian Penal Code was
found to proceed against the petitioner and the order dated
06.05.2016 passed in Cr. Rev. No. 506 of 2008 by which the
revision petition of the petitioner was dismissed.

Brief facts relevant for this case are that the
complainant filed Complaint Case No. 1417 of 2004 alleging
therein that the accused persons started construction work on the
land of Khata No. 120, Khesra No. 1655 area 16 Dhur and the



petitioner also claimed that he purchased the said land on 05.01.2000 from one Babu Lal Sahi. It is alleged that the petitioner encroached the part of land of Khata No. 120. On enquiry, it transpired that the petitioner had fraudulently purchased the land. After enquiry prima facie case under Section 420 of the Indian Penal Code was found to proceed against the petitioner. The petitioner preferred revision petition and the learned Additional Sessions Judge, 8, Gopalganj vide order dated 06.05.2016 dismissed the revision petition.

Dr. Amrendra Kumar, learned counsel for the petitioner submits that the petitioner also purchased the land of RSP No. 1655 and 1669. The petitioner did not encroach any land of the complainant nor committed any fraud. It is further submitted that the dispute is of civil nature. Complainant also filed a title suit with regard to same land, but it appears that the complainant has stated that he purchased 16 Dhur land of RSP No. 1665 and 1669 of Khata No. 120 of Khesra No. 420 but the petitioner also purchased the same land fraudulently in the year 2000 knowing this fact that Naga Tiwary had already sold the land to the complainant and his brother. The complainant and his witnesses have stated that the petitioner purchased the lands knowing the facts that opposite party had already purchased the lands.

The learned Judicial Magistrate after perusing the material collected during enquiry found prima facie case under Section 420 of the Indian Penal Code. The learned Judicial Magistrate has to peruse only the material collected during the enquiry under Section 202 of the Code of Criminal Procedure in order to find out as to whether prima facie case made or not. The documents of the petitioner cannot be look into at that stage. Considering the facts aforesaid, I do not find any illegality in the order impugned. Accordingly, the quashing petition is dismissed with liberty to raise all the points at the time of framing of charge after filing the documents.

(Prabhat Kumar Jha, J.)

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