

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30094 of 2016

Arising Out of PS.Case No. -1421 Year- 2012 Thana -PURNIA COMPLAINT CASE District-
PURNIA

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1. Mohit Kumar Jha S/o Shobhanath jha Resident of Village-Vishunpur,
P.S. - Amour District-Purnea and at Present the Petitioner is Resident of
Subhashnagar, P.S. - K. Hat, District-Purnea

.... Petitioner/s

Versus

1. The State of Bihar
2. Birendra Kumar Sharma S/o Sri Bhuvneshwar Prasad Sharma, aged
about 51 years Resident of Sharma Nivas Nawrattan Hata, P.S.-K. Hat ,
Purnea Municipal Corporation District-Purnea

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Advocate
Mr. Dhananjaya Nath Tiwari

For the Opposite Party/s : Mr. Sri Bharat Lal

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

2 08-09-2016 Heard both sides.

The petitioner apprehends his arrest in Complaint
case No. 1421 of 2012 for the offence allegedly committed by him
under Section 406 of the Indian Penal Code.

The complainant alleged that a market complex was
being constructed on the land of Dr. Uma Roy. The petitioner
came to the complainant and he agreed to sell five shops in block-
A to the complainant on consideration of Rs. 16,76,000/-. The
Complainant alleged that he altogether paid Rs. seven lacs to the
petitioner and the landlord but the shops were not registered in the

name of complainant.

Sri N. K. Agrawal, the learned senior counsel for the petitioner, submits that it is true that the petitioner entered into an agreement with the complainant on 22.10.2005 but the complainant made payment by two drafts in favour of the landlord and the petitioner received only Rs. 1,25,000/-. According to the agreement, the complainant had to make payment of the entire amount by 31.12.2006 and thereafter the registry was to be made but the complainant did not pay the entire consideration amount and that is why the agreement between the petitioner and landlord failed. The complainant also did not approach the petitioner or landlord in time and the complainant himself breached the condition of agreement by not paying the consideration amount. A photo copy of the agreement is filed in the court. Let the same be kept on record.

Considering the fact that, on the face of it, it is a case of breach of agreement between two sides, the complainant alleged that petitioner after receiving the amount did not execute the sale deed whereas the petitioner submits that complainant did not perform his part of agreement by paying entire consideration amount, therefore, the sale deed could not be executed in time and now suit for specific performance of contract is obviously barred,

the above named petitioner, in the event of his arrest or surrender before the learned court below within a period of four weeks from the date of receipt / production of a copy of this order, is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-VI, Purnea in Complaint Case No. 1421 of 2012, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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