

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.58458 of 2015

Arising Out of PS.Case No. -299 Year- 2013 Thana -KADAMKUAN District- PATNA

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1. Bharti Srivastava Wife of Santosh Kumar, Resident of Chapra Colony,
Machhali Gali, Jakkanpur, P.S. Jakkanpur, District Patna

.... Petitioner/s

Versus

1. The State of Bihar

2. Bhola Prasad Son of Late Sita Ram Resident of Flat No. 403 Suraj
Narayan Complex, Rod No.1, Rajendra Nagar, P.S. Kadam Kuan District
Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Singh

Mr. Devi Das Srivastava

For the Informant Mr. Nishant Kumar Jha

For the Opposite Party/s : Mr. Subhash Chandra Mishra(App)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

3 09-05-2016 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

The petitioner apprehends her arrest in connection with a
case registered for the offences punishable under Sections
324/406/420/427/504/506/34 of the Indian Penal Code.

Learned counsel for the petitioner submits that there is
allegation against the petitioner that she defrauded the
complainant to the tune of rupees seventeen lacs by entering into
an agreement for sale of her house for which she received rupees
seventeen lacs. He submits that actually there was no such
transaction and the document which has been filed is a fraudulent
document and she has not subscribed her signature to the same. It
is thus contended that even if such a document was taken into
consideration, at best, the complaintant could have filed a suit for

specific performance of contract for implementation and enforcement of the agreement for sale. Such a dispute at best, is a civil dispute and cannot attract criminal prosecution.

Learned counsel appearing on behalf of the complainant submits that the petitioner has failed to affirm her part of agreement and accepted rupees seventeen lacs as she has neither registered the sale deed of the property as described in the agreement but has also taken the consideration money for the sale.

However, it appears that the present case is purely civil in nature and at best, if the complainant is so advised, could have moved the Court of appropriate jurisdiction for enforcement of his agreement by filing a suit for specific performance of contract.

In view of the aforementioned facts and circumstances, let the petitioner, in the event of her arrest / surrender within a period of four weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Patna in connection with Kadam Kuan P.S. Case No. 299 of 2013, subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

(Anjana Mishra, J)

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