

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36358 of 2013

Arising Out of PS.Case No. -378 Year- 2011 Thana -PURNIA COMPLAINT CASE District-
PURNIA

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1. Shailesh Kumar S/O Late Hardeo Prasad Resident Of Village
Diwangainj, P.S. Ranupatara, District Purnia.

2. Abdhesh Kumar S/O Late Hardeo Prasad Resident Of Village
Diwangainj, P.S. Ranupatara, District Purnia Petitioners

Versus

1. The State Of Bihar

2. Md. Seheyman, Son of Israil, R/o-Bhatia, P.S.-Ranupatra (Mufassil),
Dist.-Purnea Opposite
Parties

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Appearance :

For the Petitioner/s : Mr. Pritish Kumar Lal, Advocate

For the Opposite Party/s : Mr. Amit Kumar Rakesh, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA**

ORAL ORDER

4 04-04-2017

This Criminal Miscellaneous has been filed by the
petitioners above named for quashing the order dated 03.03.2012
passed by learned Chief Judicial Magistrate, Purnea whereby and
whereunder cognizance has been taken for the offence under
Sections 420/34 of the Indian Penal Code against the petitioners
in Complaint Case No. 378 of 2011.

Heard learned counsel for the petitioners, learned
A.P.P. for the State and learned counsel for the complainant.

Perused the complaint petition and order taking
cognizance dated 03.03.2012 against the petitioners.

It is submitted that against the petitioners there is no
allegation for taking money. The allegation has been made against



Md. Mukhtar, the accused No. 1, and, as such, against the petitioners no offence under Sections 420/34 of the Indian Penal Code is made out.

After perusal of complaint petition, statement of complainant on solemn affirmation and the statement of inquiry witnesses it reveals that it was the petitioner No. 1 Shailesh Kumar who executed sale deed dated 15.12.2010 in the name of the brother of the complainant and thereafter, the complainant returned 42 decimals of land which he has taken from Md. Mukhtar Hussain but when the complainant went to plough that land, Md. Mukhtar did not allow to plough the land on the plea that the said land has already been purchased by his wife. Thus, prima facie offence under Section 420 of the Indian Penal Code is made out against the petitioners also. At the time of taking cognizance the court is only required to see as to whether on the basis of materials collected during inquiry, prima facie case is made out or not. At this stage, the defence cannot be looked into. The learned Magistrate after considering the materials collected during inquiry has found prima facie case to be made out for the offence under Sections 420/34 of the Indian Penal Code against all the accused persons which appears quite legal, proper and justified. Thus, there is no need of any interference by this Court.



In the result, finding no merit in this Criminal
Miscellaneous the same is hereby dismissed.

(Jitendra Mohan Sharma, J)

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