

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43808 of 2013

Arising Out of PS.Case No. -87 Year- 2012 Thana -BEUR District- PATNA

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1. Kumar Gaurav @ Gaurav Kumar Son Of Arjun Kumar Permanent Resident Of
Village - Nayagaon, Sonbarsa, Police Station - Nayagaon, District - Begusarai

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Raghav Prasad, Advocate Mr. Ravindra Prasad, Advocate
For the State	:	Mr. Nawal Kishore Prasad, APP.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 13-04-2017

The present petition has been filed for quashing the entire criminal proceeding including the order dated 09-07-2013 passed by Sri J. Prakash, the learned Judicial Magistrate-Ist Class, Patna in Beur P.S. Case No. 87 of 2012, by which and whereunder, the learned Magistrate took cognizance against the petitioner for the offence under Sections-379, 504 of the Indian Penal Code.

Heard learned counsel for the parties.

It has been submitted on behalf of the petitioner that he is a bona fide purchaser of the land in question. He has constructed house and is living in it. He also got his name mutated and electric connection is also there. He has enclosed Photostat copy of the sale deed dated 25-09-2000 executed by Krishnandan Rai in his favour



with respect to the aforesaid land. The informant with intention to grab the land of the petitioner got one sale deed executed from another person in the year 2009 and thereafter, tried to capture the house of the petitioner. After coming to know the aforesaid fact, the petitioner lodged the FIR against the informant vide Beur P.S. Case No. 78 of 2012 on 23-05-2012. Thereafter, in retaliation the complaint case has been filed by the informant against the petitioner on 25-05-2012 which was sent to Police Station u/S 156(3) of the Cr.P.C. The police after investigation found the case false and directed to initiate a proceeding u/S 182 & 211 of the Indian Penal Code against the informant of this case. Thereafter, on the basis of protest petition, filed by the informant, the learned Magistrate took cognizance against the petitioner by the impugned order.

From looking into allegation in the complaint petition, this court finds that in the garb of civil dispute, the informant has filed the instant complaint petition. The copy of the sale deed is of the year, 2000 executed in favour of the petitioner. The petitioner purchased the land in the year, 2000 and thereafter, his name has also been recorded in government register. His name has also been recorded in Patna Municipal Corporation vide Holding Fixation Case No. 944/2012-13 and holding No. 1373 was opened in the name of the petitioner. The annual rent receipt of Rs. 3528.00 (Annexure-4 series) has also been



issued by the Patna Municipal Corporation and electric connection has also been given in the house of the petitioner vide Annexures-5 & 6.

In this circumstance, this court is of the view, , that the learned Magistrate has committed illegality in taking the cognizance against petitioner for the offence under Sections-379/504 of the Indian Penal Code, on the basis of Protest petition filed by the complainant after police found the case false after investigation.

Accordingly, the order dated 09-07-2013 passed by Sri J. Prakash, the learned Judicial Magistrate-Ist Class, Patna in Beur P.S. Case No. 87 of 2012 including entire criminal proceeding with respect to petitioner is quashed.

This quashing petition is allowed.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	
CAV DATE	
Uploading Date	22-04-2017
Transmission Date	22-04-2017

