

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.797 of 2014

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Jagdish Rai, Son of Shree Chandra Rai, Resident of village- Dadhiya Asadhar, P.S.-
Angar Ghat, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Badiujama Khan @ Fulo Khan, Son of Late Yutuf Khan, Resident of village-
Kewas Nijamat, P.S.- Muffasil, District- Samastipur.
3. Tanveer Khan, Son of Late Abdul Bari Khan, Resident of village- Dhekjari, P.S.-
Viraul, District- Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kr. Sinha, Adv.
For the Respondent/s : Mr. Arun Kumar Singh, APP
Mr. Najmul Hoda, Adv.
Mr. Binay Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

Date: 07-02-2017

Heard the parties.

2. The petitioner is the complainant of Complaint Case
No. 485 of 2009 in which opposite party Nos. 2 and 3 have been made
accused of commission of offence punishable under Sections 406,
420, 467, 468, 471 and 120B/34 of the Indian Penal Code.

3. Opposite party Nos. 2 and 3 had filed an application



before learned Judicial Magistrate, Ist Class, Samastipur, under Section 246 of the Code of Criminal Procedure (*hereinafter referred to as the 'Code'*), for their discharge, which was rejected by an order, dated 20.01.2014. Opposite party Nos. 2 and 3, thereafter, filed a criminal revision application against the said order, dated 20.01.2014, before the learned Sessions Judge, Samastipur, which has been allowed by an order, dated 11.04.2014, passed in Cr. Revision No. 81 of 2014. The said order, dated 11.04.2014, is under challenge in the present criminal revision application.

4. Learned counsel for the petitioner has submitted that despite there being material on record, learned court below allowed the revision application filed by opposite party Nos. 2 and 3 in exercise of power under Section 246 of the Code. According to him, there was sufficient evidence on record on the basis of which the Court ought to have proceeded against opposite party Nos. 2 and 3.

5. Before going into correctness of the impugned order, it will be apt to take note of the case of the prosecution in brief. The complainant is said to have purchased a Tractor, which he had agreed to sell to opposite party Nos. 2 and 3 for a sum of Rs. 1,50,000/-. It is his case that out of agreed amount of Rs. 1,50,000/-, Rs. 25,000/- was paid to him. Rest of the remaining amount, i.e., Rs. 1,25,000/- was to be paid subsequently. A sum of Rs. 25,000/- was also subsequently



paid to him. Thus, a sum of Rs. 1,00,000/- was still remaining to be paid by opposite party Nos. 2 and 3. The amount was agreed to be paid in installments. It is also his case that opposite party Nos. 2 and 3 did not pay the amount and wrongly incorporated in the sale-agreement that the entire amount has been paid, as agreed.

6. On looking at the nature of allegation, I am of the view that no case of forgery is made out on the basis of what has been alleged. It primarily appears to be a civil dispute between the parties. I do not find any reason to interfere with the impugned order in the facts and circumstances of the present case and in view of the nature of dispute as disclosed in the complaint petition.

7. This application has no merit and is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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