

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.44290 of 2013

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Arun Kumar Murarka Alias Arun Murarka Son Of Behari Lal Murarka, resident of Flat No.- B 603, Veena Nagar, S.V. Road, Malad West P.S. Malad West, P.S. Malad Mumbai, At Present Residing at C- 406, Kingston Heights, Chincholi Bunder Road, Malad West, Police Station- Malad, Mumbai- 400064

.... Petitioner

Versus

1. The State of Bihar
2. Sri Lalan Singh Son of Late Naresh Singh Resident of Village Goh, Police Station- Goh, District- Aurangabad

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Gouranga Chatterjee, Advocate
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 24-04-2017

Heard learned counsel for the petitioner.

2. Despite valid service of notice upon the complainant opposite party no. 2, he has not chosen to contest the matter.

3. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing of the summoning order dated 04.03.2013 passed by the learned SDJM, Daudnagar in Complaint Case No. 88 of 2013.



4. The complainant opposite party no. 2 has alleged in the complaint that he is a land broker and lives at Mumbai while the petitioner is a Chartered Accountant at Mumbai. The petitioner at some point of time approached him to sell his residential plot at Patna. In course of negotiation, the complainant showed some plots at Aurangabad and Patna but he never gave details of the land or its exact location. The complainant spent around Rs.1,00,000/- in travelling with two persons from Mumbai to Goh. On 01.02.2010, the petitioner had taken loan of Rs.50,000/- from the complainant at his residence.

5. It is further alleged that the complainant demanded Rs.1,50,000/- from the petitioner since the petitioner did not disclose the exact location and other details of the his land. However, the petitioner did not pay any money to the complainant and on 07.02.2013, finally the petitioner refused to pay back the money received by him. It is also alleged that the complainant informed the police at Malad police station in Mumbai but the SHO did not institute the FIR. Thereafter, he came back to Goh and went to the police station, where the Officer-in-Charge did not also accept his complaint.

6. Learned counsel for the petitioner contended that the allegations made in the complaint are absolutely false,



vexatious and mala fide. He contended that the complainant has claimed in the complaint petition that he worked for gain at Mumbai and that the petitioner belongs to Bihar but has not disclosed his Mumbai Address and the Bihar Address of the petitioner. He submitted that the petitioner never visited any part of Bihar in his life time and it is baseless and false statement that he belongs to Bihar. He submitted that it is suspected that the petitioner has been involved by such person who is inimical to him in Mumbai in view of some dispute going on in the Housing Society in which the petitioner is elected as Secretary and who has some Bihar connection through the complainant who is a complete stranger to the petitioner.

7. I have heard learned counsel for the petitioner and carefully perused the record.

8. The entire complaint is based on the oral allegations made by the complainant. There is no document to support that any deal for land was made between the parties. Money alleged to be advanced by the complainant to the petitioner was not made by any negotiable instrument. There is no other material to support the fact that the complainant had handed over any amount to the petitioner. The complainant has also not produced any evidence about the travel and stay of the petitioner in



Bihar except his oral statement. The complainant does not disclose in the complaint how he came in contact with the petitioner, where he lived in Mumbai and how he traveled so many times with almost a stranger without any details of land. The complaint is silent why the petitioner visited Goh if his land was at Patna.

9. Moreover, the statement of the complainant on solemn affirmation is contradictory to the statement made in the complaint. The complainant stated in his statement on solemn affirmation that he came in contact with the petitioner in Mumbai Registry Office where he had gone for registry of some Bihar documents. He did not claim that he worked for gain in Mumbai where he had come in contact with the petitioner. The complainant started visiting him at Goh after his meeting at Registry Office in Mumbai. He further stated that the petitioner did not show him any plot which is contrary to the complaint.

10. In the facts and circumstances of the case, I find that it is out and out a malicious prosecution which has been launched by the complainant with ulterior motive. The allegations made in the complaint are incoherent, absurd and vexatious.

11. For the reasons noted above, allowing the prosecution to continue would amount to an abuse of the process of the court. In that view of the matter, it is deemed expedient in the



interest of justice to quash Complaint Case No. 88 of 2013 pending before the learned SDJM, Daudnagar. Ordered accordingly.

12. The application stands allowed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.04.2017
Transmission Date	25.04.2017

