

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.4723 of 2014

Arising Out of PS.Case No. -2120 Year- 2010 Thana -BHAGALPUR COMPLAINT CASE District-
BHAGALPUR

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Manoj Kumar, S/O Late Nityanand Kunwar, Resident Of Village- Anadipur, P.S.-
Kahalgaoon, District- Bhagalpur at present address Manglum Siyaram Marg Road
No.-3 Near Rajdhani Gas Godown Arjun Tower Shivpuri Colony, P.S.- Sastri
Nagar, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Preeti Kumari, W/O Sri Niranjan Rai, R/O Village- Budhchak, P.S.- Gopalpur,
District- Bhagalpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s :

For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 25-07-2017

Heard learned counsel for the parties.

2. This application, under Section 482 of the Cr.P.C.,
1973, has been filed by the petitioner for setting aside order dated
05.09.2011 passed by the Judicial Magistrate, 1st Class, Bhagalpur in
Complaint Case No. 2120 of 2010 whereby he has taken cognizance
of offence against the petitioner under Sections 418 and 420 of the
Indian Penal Code.

3. The case, as stated in the complaint, in brief, is that the
petitioner entered into an agreement for sale of a piece of land and
accepted Rs. 1,25,000/- as advance money. The date for execution of



sale deed was fixed on 08.06.2010, before that the complainant also paid Rs. 3,80,000/- to the petitioner, so total consideration money received is Rs. 5,05,000/- but he executed the sale deed with respect to the same land on 02.06.2010 to some other person. Therefore, he cheated the complainant.

4. Learned counsel for the petitioner submits that the petitioner is always ready to return back money taken in advance from the complainant/O.P. No. 2 and in this regard petitioner earlier sent a notice to the O.P. No. 2 but she has declined the offer. He submits that earlier a suit was also filed by the O.P. No. 2 but the same was also withdrawn by her.

5. Whereas, learned counsel appearing on behalf of the O.P. No. 2 submits that despite entering into agreement for sale and receiving advance money of Rs. 5,05,000/- , the petitioner sold the same piece of land to some other person, so she has been cheated in this case.

6. Having considered rival submissions of both sides and considering the allegation levelled in the complaint that after receiving advance money after entering into an agreement for sale, which was to be executed by 08.06.2010, the same land was sold by the petitioner to some other person on 02.06.2010, prior to the date fixed for execution of sale deed in favour of the complainant/O.P. No.



2. So a *prima facie* case under Sections 418 and 420 of the Indian Penal Code is made out. Therefore, I find not merit in this petition, it is accordingly dismissed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
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