

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17611 of 2014

Arising Out of PS.Case No. -172 Year- 2013 Thana -BUXAR COMPLAINT CASE District-
BUXAR

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1. Akhauri Sulabh Kumar Sinha, son of Suresh Kumar Sinha, resident of village-
Churamanpur, P.S.- Buxar (Industrial), District- Buxar

.... Petitioner/s

Versus

1. The State of Bihar,
2. Akhauri Diensh Kumar Sinha, resident of village- Churamanpur, P.S.- Buxar
(Industrial), District- Buxar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh, Advocate

For the Opposite Party No.1: Mr. Ram Anurag Singh, APP

For the Opposite Party No.2: Mr. Nagendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 07-11-2017

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 07.02.2014 passed by the Judicial Magistrate, 1st class, Buxar, in Complaint Case No.172-C of 2013 by which learned Magistrate after holding enquiry has found *prima facie* case against the petitioner for the offence under Section(s) 468, 120-B Indian Penal Code.

In the impugned order learned Magistrate has mentioned that on the basis of Solemn Affirmation of the Complainant, statement of five witnesses he has found *prima facie* case against the petitioner for the offence under Section(s) 468, 120-B Indian Penal Code.



Allegation against the petitioner, in short, is that Petitioner purchased land on the basis of power of attorney, alleged to have been given by Vijay Prakash Sahay to one Shree Prakash.

Counsel for the petitioner has submitted nature of dispute is completely civil dispute and civil remedy is available to the Complainant-Opposite Party No.2.

Counsel for the Opposite Party No.2 has submitted that it is not the stage to go into these details. At the time of taking cognizance only *prima facie* case has to be looked into by the Magistrate. Opposite Party No.2 has purchased the land through Sale Deed by vendor as mentioned in the Complaint Petition in the year 1981.

From perusal of the impugned order, this Court finds that the learned Magistrate after perusing Solemn Affirmation of the Complainant and statement of the witnesses found *prima facie* case against the petitioner. At the time of taking cognizance, learned Magistrate is required only to see *prima facie* case against the accused.

Therefore, this Court is not inclined to interfere with the impugned order.

This application is disposed off with liberty to the petitioner to raise all the points, as raised in the present application,



at the time of framing of Charge, which shall be considered and disposed off by the Court below in accordance with law.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17-11-2017
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