

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10133 of 2015

Arising Out of PS.Case No. -733 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Most. Sudha Prasad, wife of late Rajeshwar Prasad @ Bachcha Babu.
2. Anand Prasad @ Ajay Prasad @ Anand kumar, Son of late Rajeshwar Prasad @ Bachcha Babu.
Both Resident of Mohalla- Mithapur B-Area, Police Station- Jakkanpur, district- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Birchand Patel, Son of Sri Kailash Rai Resident of Mohalla Nuruddinganj, Police station- Malsalami, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Singh

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary-1(App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

3 08-12-2017 Heard learned counsel for the petitioners and learned counsel for the State.

2. Petitioners seek quashing of cognizance order dated 28.04.2014 passed by the learned Sub Divisional Judicial Magistrate, Patna City in Complaint Case No. 733 of 2012 thereby taking cognizance of offence under Sections 406 and 420 of the Indian Penal Code.

3. The brief fact of the complaint case is that petitioners, land owners, entered into agreement for sale on 15.10.2011 with the complainant for executing sale deed with respect to land, details of which is mentioned in the complaint.



Total consideration amount fixed for the transaction was Rs. 25 lacs and on the date of agreement, the complainant paid Rs. 14,08,000/- and rest amount was to be paid within two months thereafter sale deed was to be executed. Complainant was requesting repeatedly within that period to execute sale deed after receiving the remaining consideration amount, but they always evaded, ultimately on 20.12.2011 he sent a legal notice despite that neither reply was given nor sale deed was executed.

4. Learned counsel for the petitioners submits that it is a civil dispute, Rs. 14,08,000/- was received by the petitioners and some amount remained due, which was to be paid within two months, but complainant did not pay rest consideration amount.

5. Learned counsel for the State submits that agreement for sale is Annexure-2 signed by the petitioners and they also accepted Rs. 14,08,000/- in advance, even a legal notice was also issued on 20.12.2011 by the complainant despite that sale deed was not executed.

6. Having considered the rival submissions and on perusal of the allegations made in the complaint, it appears that despite taking money in advance of a sum of Rs. 14,08,000/- though complainant was ready to pay the rest consideration amount within stipulated period, despite repeated requests neither



sale deed was executed nor money taken in advance was returned back, so *prima facie* case is made out against the petitioners. Hence, this applications stands dismissed.

(Arun Kumar, J)

Sujit/-

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