

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39556 of 2013

Arising Out of PS.Case No. -2965 Year- 2011 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Niraj Gautam S/O Shree Ashok Kumar Resident Of Mohalla Rajendra Nagar Road No. 8, Plot No. 113b, Matri Niwas, P.O. And Police Station Kadamkuan, District Patna.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Manju Kalawati Devi W/O Shri Sadanand Ram Resident Of 7 H.F. 3/9 H.I.G. Housing Colony, Kankarbagh, Police Station Kankarbagh, District Patna.
3. Sadanand Ram S/O Not Known Resident Of 7 H.F. 3/9 H.I.G. Housing Colony, Kankarbagh, Police Station Kankarbagh, District Patna.
4. Rajeshwar Pandey S/O Late Pandit Prabhakar Sharwan Resident Of Mohalla Transport Nagar, Police Station Kankarbagh, District Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binay Kumar

For the Opposite Party/s : Mr. Ramchandra Singh (App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

8 22-06-2017

Heard both the sides.

This application has been filed against the order dated 18.08.2012 passed in Complaint Case No. 2965c of 2011 by Shri Sunil Kumar-II, learned Judicial Magistrate, Patna, by which the learned Magistrate has declined to issue summon against opposite party no.3- Sadanand Ram. The learned Magistrate has taken cognizance for the offence under Section 406 of the Indian Penal Code only against Manju Kalawati Devi.

The grievance of the petitioner, who happens to be



the complainant is that the summons should have been also issued against the husband of Manju Kalawati Devi, also another co-accused of complaint case.

Learned counsel for the petitioner submits that the deed of agreement for sale was executed by the wife of Sadanand Ram and some advance money was paid but later on it is detected that the land was Gairmajarua land, thereafter, the complainant met accused persons and asked them to return back the money but the same was not returned.

Learned counsel for opposite party no.3 submits that the deed of agreement for sale was executed by Manju Kalawati Devi against whom cognizance has already been taken. She is the owner of the property and in that capacity executed sale deed. Moreover, it is not a Gaimajarua land so opposite party no.3 has no criminal liability in this case. He has been impleaded in complaint case only because he is the husband of Manju Kalawati Devi.

Having considered the rival submissions and on perusal of record it appears that the deed of agreement for sale was executed by Manju Kalawati Devi and some advance money was paid to her and not to her husband- Sadanand Ram, so the learned Judicial Magistrate has rightly not taken cognizance



against opposite party no.3 and not summoned him to face the trial.

The application stands dismissed.

(Arun Kumar, J)

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