

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4748 of 2015

Arising Out of PS.Case No. -947 Year- 2013 Thana -ROHTAS COMPLAINT CASE District-
SASARAM (ROHTAS)

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Rajendra Yadav Son of Late Jokhan Yadav resident of Mauza- Katriya,
P.S. Alinagar, District- Chandauli (U.P) At present resident of Yadav Milk
and Sweet , Yadav Hotel , shop no- 15, Ram Nagar Industrial Area, P.S.
District Chandauli(U.P)

.... Petitioner

Versus

1. The State of Bihar.
2. Sanjay Tiwari son of Ranjeet Tiwari resident of Mohalla Gaurakshni,
Sasaram, P.S. Sasaram town, District- Rohtas.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Mishra

For the Opposite Party/s : Mr. Upendra Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

4 11-12-2017 Heard learned Counsel for the petitioner as well as the

learned Counsel for the State as also the learned Counsel appearing on

behalf of Opposite party No. 2.

The petitioner seeks quashing of the cognizance order
dated 29.5.2014 passed by the Judicial Magistrate, 1st Class, Sasaram,
thereby taking cognizance of the offence under Section 418 of the IPC
and issuing summon against the petitioner to stand trial in the case.

The prosecution case in brief is that the accused, petitioner
of this application, persuaded the complainant to give him Ten lakh
rupees for investment as he works as a Property Dealer in Ramnagar
Industrial Area, Varanasi with promise to return the principal amount
after two years and half of the profit earned by the money will also be



paid to the complainant. He also signed an agreement on the non judicial stamp but after expiry of two years even the principal amount was not returned by the petitioner so he has cheated the complainant.

Learned Counsel appearing on behalf of the petitioner submits that it is purely a civil dispute and in order to resolve the civil dispute this criminal case has been filed, whereas learned Counsel appearing on behalf of the other side submits that not returning any amount itself indicates dishonest intention of the petitioner so he has cheated the complainant.

Having considered the rival submission and on perusal of the record this Court finds that as per allegation Ten lakh rupees was given by the complainant and the same was to be returned after two years and the said money of the complainant was invested in sale and purchase of the land and the petitioner also promised the complainant to pay half of the amount of income is an allurement but even the principal amount has not been returned back, so at this stage the prima facie allegation of fraudulent deception and dishonest intention at the time of making promise inducing the complainant to deliver money cannot be ruled out. So finding a prima facie case of cheating, the application stands dismissed.

The petitioner will be at liberty to file discharge application.

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(Arun Kumar, J.)

