

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.26172 of 2017

Arising Out of PS.Case No. -55 Year- 2017 Thana -KOILWAR District- BHOJPUR

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Ajay Kumar Singh, Son of Kauleshwar Singh, Resident of Village- Sakddi, P.S.-
Koilwar, District- Bhojpur.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s :

For the State : Mr. R. S. Choudhary, APP

For the Informant : Mr. Sanjay Kumar Ojha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 01-07-2017

Heard learned counsel for the petitioner; learned A.P.P. for the State and learned counsel for the informant, who has *suo motu* appeared.

2. At the request of learned counsel, the Court had called for the records of Cr. Misc. No. 17111 of 2017 which has been produced and the Court has also perused the same.

3. The petitioner apprehends arrest in Koilwar P.S. Case No. 55 of 2017 dated 18.03.2017 instituted under Sections 419/420/406/468/471/120B/34 of the Indian Penal Code.

4. The allegation against the petitioner is that he, being a



middleman/broker of the land, had misrepresented to the petitioner about a certain piece of land and had got into an agreement in which the lady was said to be the owner of the land for which advance money was taken and paper prepared on which the petitioner was a witness along with the daughter and son of the said lady representing to be the land owner.

5. Learned counsel for the petitioner submitted that both the petitioner and the informant are land-brokers and were initially working together but thereafter due to some dispute the informant has lodged this case with ulterior motive. He submitted that ultimately the land in question was sold to another person in whose favour a registered sale deed has been executed and thus the cause of action and *locus standi* is only of that person in whose favour the sale deed has been executed and the petitioner has no right or cause of action to institute the present proceeding. It was further submitted that in Complaint Case No. 1662 (C) of 2016 filed by the informant, he has moved the Court for anticipatory bail in Cr. Misc. No. 17111 of 2017 in which by order dated 06.06.2017, it has been directed that no coercive steps shall be taken against the petitioner.

6. Learned A.P.P. and learned counsel for the informant submitted that the conduct of the petitioner, both in his dealings outside the Court and even before the Court, is not above board and in



fact in the present petition as well as in the earlier petition i.e., Cr. Misc. No. 17111 of 2017, he had suppressed facts with regard to criminal antecedent against him. It was pointed out that in Cr. Misc. No. 17111 of 2017, statement was made that the petitioner had no criminal antecedent. The said petition was affidavited on 30.03.2017 but only on 23.06.2017 by way of supplementary affidavit it was disclosed that the petitioner was also accused in Koilwar P.S. Case No. 55 of 2017 and Compliant Case No. 549C of 2017. It was submitted that in the said case also the petitioner did not disclose the pendency of the present case. Learned counsel submitted that even in the present case there is statement that the petitioner is accused in Complaint Case No. 1662(C) of 2016 without disclosing the pendency of Koilwar P.S. Case No. 55 of 2017. It was submitted that in addition to these cases, there is at least one more complaint case, being Complaint Case No. 522(C) of 2017, pending against the petitioner. It was submitted that on this ground alone, the application deserves to be dismissed. Further, learned counsel submitted that the submissions of learned counsel for the petitioner were misconceived. It was pointed out that the entire allegations is based on the initial agreement between the petitioner and one Kanti Devi, who was said to be the owner of the land, for which the deal was settled through the petitioner, as he was the broker and written agreement had been



entered into by Kanti Devi in favour of the petitioner after accepting Rs. 65,000/- in which the petitioner as well as the son and daughter of Kanti Devi whose photograph is also annexed in the agreement deed are witnesses. It was submitted that the said lady whose photograph appears on the agreement is that of one Kiran Kumari Devi whose husband's name is also different and she resides in another village and has also criminal antecedent. Learned counsel submitted that thus, the cause of action is directly for the petitioner as a different lady impersonating to be Kanti Devi had been set up by the petitioner showing her as the land owner for which the criminal proceeding has been initiated and there cannot be any infirmity in the same.

7. Having considered the rival contentions, in the considered opinion of the Court, the petitioner has made himself disentitled to any indulgence. The first and foremost circumstance against the petitioner is that he has suppressed about his criminal antecedent both in Cr. Misc. No. 17111 of 2017 as well as in the present case. Moreover, on the basis of the allegations made in the F.I.R., it cannot be said that the dispute is purely civil as there is sufficient material to justify the initiation of a criminal case. The Court would only observe here that civil offence is also made out from the complaint but that would not mean that criminal proceeding is not maintainable. Once there is allegation of impersonation in



which the petitioner is the main agent as he has also signed on the document as witness and the allegation that he was the person instrumental in getting the informant to pay money for buying land, criminal case would be maintainable.

8. For the reasons aforesaid, both on merits and otherwise the Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J)

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