

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.37819 of 2011**

Arising Out of PS.Case No. -0 Year- null Thana -null District- SITAMARHI

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Udit Narayan Sah S/O Late Banhi Sah Resident Of Village- Parshurampur, P.S.-  
Parsauni, District- Sitamarhi

.... .... Petitioner

Versus

1. The State Of Bihar  
2. Md. Mohsin S/O Late Dasai Resident Of Village- Parshurampur, Tola-  
Thanahara,P.S.- Parsauni, District- Sitamarhi

.... .... Opposite Parties

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**Appearance :**

For the Petitioner : Mr. Ritesh Kumar Nr. Singh, Advocate  
For the State : Mr. B. Lal, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR**

**ORAL JUDGMENT**

**Date: 07-08-2017**

The petitioner has filed this quashing application under Section 482 of the Code of Criminal Procedure, 1973 for setting aside order dated 11.7.2011 passed by Judicial Magistrate Ist Class, Sitamarhi in Complaint Case No.1066 of 2010 thereby taking cognizance of the offence under Section 420 of the Indian Penal Code.

2. Learned counsel appearing on behalf of the petitioner submits that the complainant admits that he purchased 1.86 decimals of land from one Satendra Pratap Shahi in the year 1989. It is alleged that 85 decimals land along with some other plots is sold to some other person out of 1.10



acre of land, so 17 decimals of land remained with the petitioner and out of that he has sold 7 decimals of land to the complainant, so prima facie no case of cheating is made out; whereas learned counsel appearing on behalf of the State submits that the allegation in the complaint is that the petitioner and two others jointly executed the sale deed in favour of the complainant with respect to 7 decimals of land but some part of the same land was already earlier sold to Anwar, therefore, the case under Section 420 of I.P.C. is made out.

3. Having considered rival submissions and on perusal of record especially the allegation levelled in the complaint petition is that after taking consideration money the petitioner along with other executed a sale deed with respect to 7 decimals of land to him but later on it transpired that the some part of the land included in the sale deed was earlier sold to Anwar, another person, the said fact was not brought to his knowledge, so there is allegation of fraudulent and dishonest inducement to the complainant leading to deception by suppressing earlier transaction of the same land on part of the land was already sold to other person. It is settled principle of law that disputed question of fact cannot be looked into for quashing the complaint and criminal proceeding in exercise of inherent jurisdiction of the



Court rather the same is subject matter of the trial.

4. Thus, for the aforesaid reason, finding no ground for interference in the cognizance order, the petition stands dismissed.

**(Arun Kumar, J)**

N.H./-

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