

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40257 of 2014

Arising Out of PS.Case No. -585 Year- 2013 Thana -KHAZANIHAT District- PURNIA

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Joseph Marandi @ Baboo Lal Marandi, Son of Late Kailoo Marandi, Resident of
Oli Tola, P.S. - K. Hat, Distt.- Purnea

.... Petitioner/s

Versus

1. The State of Bihar
2. Jasinta Murmu, W/o Ganesh Marandi, R/o Mohalla- Shivaji Colony, Mariyam Nagar, Ward No. 6, P.S.- K.Hat, District- Purnea.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Nath Tiwari, Advocate.

For the Opposite Party/s : Mr. Ajay Kumar -1, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 12-02-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

2. Petitioner seeks quashing of cognizance order dated
08.05.2014 passed by the Chief Judicial Magistrate, Purnea in K.Hat
P.S.Case No. 585 of 2013 (G.R./P.C. No. 4558 of 2014) thereby
taking cognizance of offence under Sections 354, 384 406, 420, 504
and 506 and of Indian Penal Code.

3. The brief fact giving rise to the case is that informant
approached the petitioner for purchasing 03 Kathas of land on the
price of Rs. 3 lacs per Katha and before witnesses, informant paid



Rs. 5 lacs to the petitioner but no agreement for sale was prepared but promised to execute the sale deed within three months after receiving of the remaining consideration amount. Ultimately, he refused to execute the sale deed on some pretext or other and neither returned back advance money of Rs. 5 lacs nor executed the sale deed.

4. Learned counsel for the petitioner submits that allegation appears to be false as there is no document to show that Rs. 5 lacs in advance was paid by the O.P. No. 2 and in any case, dispute is of civil nature.

5. Learned counsel appearing on behalf of the State submits that *prima facie* case of cheating and breach of trust is made out.

6. Having considered the rival submissions and on perusal of record, the Court finds that there is no documentary evidence on record to show that Rs. 5 lacs in advance was paid even there is no document showing agreement for sale either registered or unregistered. So the dispute is predominantly civil in nature as *prima facie* no criminal offence is made out so O.P. No. 2 may take recourse to civil action. Hence, the impugned order taking cognizance dated 08.05.2014 passed in K.Hat P.S.Case No. 585 of 2013 (G.R./P.C. No. 4558 of 2014) and subsequent criminal



proceeding with respect to the petitioner is quashed.

The application stands allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.02.2018
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