

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.3053 of 2014

Arising Out of PS.Case No. -571 Year- 2011 Thana -PATNA COMPLAINT CASE District-
PATNA

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Anand Kumar, Son Of Late Raj Kishore Mahto, Resident Of Mohalla- Tulsi Mandi,
P.O. Gulzarbagh, P.S. Alamganj, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar

2. Raj Kumar Mahto, Son of Late Sita Ram Mahto, Resident of Mohalla-
Mogalpura (Barkat Khan Ka Akhara, Patna City), P.S. Khajelakan, District- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumr Chandran, Advocate.

For the Opposite Party/s : Mr. Ajay Kumar No. 1, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 02-01-2018

Heard learned counsel for the petitioner and learned
counsel for the State. Learned counsel for the O.P. No. 2 is not
present.

2. Petitioner seeks quashing of the cognizance order
dated 15.10.2011 passed by the Judicial Magistrate, 1st Class, Patna
City in Complaint Case No. 571 of 2011, thereby taking cognizance
of offence under Section 420 of the Indian Penal Code.

3. The fact, in brief, giving rise to the case is that Raj
Kumar Mahto, O.P. No. 2, complainant of the case, entered into two
agreements for sale with the petitioner along with his father and
another exclusively with the father. Pursuant to the first agreement of
sale, the complainant paid Rs. 1,65,000/- and Rs. 2,50,000/- for
second agreement for sale, there was a condition that after



measurement of the land and fixing pillar for marking area, sale deed would be executed, but the same was not done rather the same piece of land was sold to another person.

4. Learned counsel for the petitioner submits that it is purely a civil dispute and already a title suit for setting aside the sale deed is pending and the petitioner had signed only one agreement for sale deed and he is not the signatory in another agreement for sale so no ingredient of cheating is made out.

5. However, considering the allegation levelled in the complaint, *prima facie*, a case under Section 420 of Indian Penal Code is made out. It is the law that in case of a criminal offence concerning the property being made out, prosecution under criminal law can be pursued besides seeking civil remedy, if any. The petitioner is also one of the signatories in one of the agreement for sale, despite receiving advance money and entering into agreement for sale of land with the complainant, sold it to some other person. So there is no occasion to interfere with the cognizance order. Accordingly, this application stands dismissed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
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