

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15047 of 2014

Arising Out of PS. Case No.-85 Year-2013 Thana- PATNA COMPLAINT CASE District-
Patna

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Ritesh Kumar Upadhyay Son of Sri Krishna Kumar Upadhyay R/o Mohalla
Ratanpur, Basant, P.S. Awtar nagar, District Saran

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Md Tayab Son Of Saiyad Abdul Tabab R/O Mohalla Noon Ka Chauraha, P.S.
Khajekalan, District Patna

... .. Opposite Party/s

with

Criminal Miscellaneous No. 10803 of 2017

Arising Out of PS. Case No.-379 Year-2014 Thana- HAJIPUR SADAR District- Vaishali

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Md. Taiyab, son of Sayed Taiyab, Resident of Mohalla- Noon Ka Chauraha,
Patna City, P.S.- Khajekalan, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Chandan Kumar, S/o Late Panna Lal Sah, R/o Karnpura, P.S.- Ganga Over
Bridge, Dist- Vaishali.

... .. Opposite Party/s

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Appearance :

(In Criminal Miscellaneous No. 15047 of 2014)

For the Petitioner/s : Mr. Surendra Kishore Thakur

For the Opposite Party/s : Mr. H.A. KHAN (APP)

(In Criminal Miscellaneous No. 10803 of 2017)

For the Petitioner/s : Mr. Prakash Chandra Agrawal

For the Opposite Party/s : Mr. SRI ABHAY KUMAR ROY

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
C.A.V. JUDGMENT

Date : 24-01-2018

Heard learned counsels for the parties.

Petitioners, by means of these applications under
section 482 of the Code of Criminal Procedure, have invoked
the inherent jurisdiction of this Court with prayer to quash the



order dated 25.06.2013 passed by Judicial Magistrate, 1st Class-cum-Addl. Munsif, Patna City in Complaint Case No. 85 of 2013, whereby cognizance has been taken against the petitioner in Cr. Misc. No. 15047 of 2014 for the offence under sections 420, 323, 504 of the Indian Penal Code and to quash the order dated 20.10.2016, passed by the Chief Judicial Magistrate, Vaishali at Hajipur in Hajipur P.S. Case No. 379 of 2014, G.R. No. 2161 of 2014, Tr. No. 3766 of 2016, whereby cognizance has been taken against the petitioner in Cr. Misc. No. 10803 of 2017 for the offence under sections 420, 406, 506/34 of the Indian Penal Code.

Facts of the case, in short, is that one Md. Taiyab (Petitioner in Cr. Misc. No. 10803 of 2017) lodged a complaint case alleging therein that the accused persons including Ritesh Kumar Upadhyay (petitioner in Cr. Misc. No. 15047 of 2014) deals in property business and an agreement for sale of land was entered in between the parties. Agreement was executed in the name of Chandan Kumar, accused no. 1 (Annexure-2 of Cr. Misc. No. 15047 of 2014). Further, three sale deeds were executed between the parties (Annexure-2 series of Cr. Misc. 10803 of 2017). A sum of Rs. 1,17,50,000/- out of total consideration money of Rs. 2,09, 82,500/- was paid to him.



Two cheques of Rs. 15,00,000/- and 10,00,000/- were given to the Md. Tiayab with assurance that remaining amount will be paid later on, but the same got dishonoured. It is further alleged that the accused persons threatened the complainant to execute the sale deed otherwise he will be killed. On protest, complainant was assaulted by the accused persons. With respect to the same dispute, Chandan Kumar also lodged a first information report alleging that in spite of payment of Rs. 1,17,50,000/- sale deed has not been executed in his favour by Md. Taiyab & Mukesh Kumar Singh. When they were requested to execute the sale deed, they even threatened to kill.

Learned counsels appearing for the petitioners submits that no offence against these petitioners are disclosed and the present prosecution have been initiated with mala fide intention for the purposes of harassment. There is case and counter case between the parties. Some agreements for sale were executed between the parties with respect to sale and purchase of land. In light of that sale deeds contained at Annexure-2 series of Cr. Misc. No. 10803 of 2017 were executed. Both the learned counsels submit that the dispute involved is purely civil in nature for which no criminal prosecution is warranted. Learned counsels, therefore, pray that



the orders taking cognizance against both the petitioners are fit to be quashed.

From perusal of the materials available on record, and looking in the facts and circumstances of the case at this stage, this Court finds that the arguments advanced by the learned counsel for the petitioners has force. The matter in both the criminal applications is with respect to sale and purchase of land between the parties. In this regard, certain agreements and sale deeds have also been brought on record. The dispute involved is purely civil in nature for which no criminal prosecution is warranted.

In view of the discussions made above, this Court feels that continuance of the present prosecutions would be an abuse of the process of the Court. Accordingly, the order dated 25.06.2013 passed by Judicial Magistrate, 1st Class-cum-Addl. Munsif, Patna City in Complaint Case No. 85 of 2013, whereby cognizance has been taken against the petitioner in Cr. Misc. No. 15047 of 2014 for the offence under sections 420, 323, 504 of the Indian Penal Code and the order dated 20.10.2016, passed by the Chief Judicial Magistrate, Vaishali at Hajipur in Hajipur P.S. Case No. 379 of 2014, G.R. No. 2161 of 2014, Tr. No. 3766 of 2016, whereby cognizance has been taken against the



petitioner in Cr. Misc. No. 10803 of 2017 for the offence under sections 420, 406, 506/34 of the Indian Penal Code, are hereby quashed.

Both the Cr. Misc. applications stand allowed.

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
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