

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12850 of 2018

Arising Out of PS.Case No. -222 Year- 2017 Thana -KATIHAR COMPLAINT CASE
District- KATIHAR

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Md. Musraful, Son of Late Tabjul Haque, Resident of
Chamarpara, Police Station- Pranpur, District- Katihar.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Sudhanshu Shekhar Gupta, Son of Bhagwan Prasad
Gupta, Resident of Mohalla- Ram Nagar, Ward No. 25,
Police Station- Katihar, District- Katihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raghvendra Kr. Singh, Adv.

For the Opposite Party/s : Mr. Rajkishore Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

2 04-04-2018 The opposite party No. 2 has been granted
anticipatory bail by the order dated 25.01.2018, passed by
the learned Sessions Judge, Katihar in A.B.P. No. 2103 of
2017, in connection with Complaint Case No. 222 of 2017,
which has been instituted for the offences punishable under
Sections 323, 504, 406 and 420 of the Indian Penal Code.

The opposite party No. 2 is said to have accepted
Rs. 2,00,000/- from the petitioner for selling a plot of land,



but neither the land was transferred nor the money was returned.

It appears that the opposite party No. 2 was granted anticipatory bail on his assertion before the court below that he has returned the entire amount of Rs. 2,00,000/- to the complainant/petitioner.

Mr. Raghvendra Kumar Singh, learned Advocate for the petitioner has, however, submitted that the opposite party No. 2 had signed a document, contained in Annexure-2, admitting that he had received Rs. 2,00,000/- as consideration amount for sale of land and had also promised to pay the same, but neither the land was transferred nor the money was returned. It has further been submitted that if the fact of the opposite party No. 2 having accepted the amount of Rs. 2,00,000/- was acknowledged on a non-judicial stamp paper of Rs. 100/-, there was no reason for accepting a receipt of return of Rs. 2,00,000/- on a blank-sheet of paper in a note-book, which fact actually has been taken into account by the learned court below in granting anticipatory bail to the opposite party No. 2.

But, for the acknowledgment of the opposite party No. 2 on a non-judicial stamp paper of his having promised to return Rs. 2,00,000/-, there is no other proof of payment of the aforesaid money to opposite party No. 2.



The aforesaid acknowledgment referred to above, does not create any right in favour of the petitioner or any obligation on the part of the opposite party No. 2. Even if it is taken to be an acknowledgment of fact that opposite party No. 2 had promised to return the money, this Court does not have any connecting evidence whether, after the last promise, money was paid or not. If the averment made in Annexure-2 to the petition is to be believed, there is no reason for not accepting the noting made on a plain-sheet of paper. That apart, the allegations give rise to a civil dispute where money is alleged to have been paid and the same has not been returned.

If anticipatory bail is granted in a case like this, it does not lead to the closure of the case, which can be contested by the parties concerned.

This Court feels that there is no necessity of interfering with the aforesaid order granting bail to opposite party No. 2.

This petition is, thus, dismissed.

(Ashutosh Kumar, J)

Praveen-II/-

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