

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41699 of 2015

Arising Out of PS. Case No.-522 Year-2014 Thana- KHAGARIA District- Khagaria

Om Prakash Gupta, S/o Late Basudeo Sah, resident of Muhalla- Thano road
Khagaria, P.S.- Khagaria, Dist- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Yogendra Prasad Sah, S/o Late Chote Lal Sah, Resident of Mohalla- Hajeepur
Sidhighat, P.S.- Khagaria, Dist- Khagaria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Indrajit Kumar

For the Opposite Party/s : Mr. Anil Kumar Singh(App)

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3 10-07-2018 This petition under Section 482 Cr. PC has been filed

for quashing the order dated 01.06.2015 by which the learned

Chief Judicial Magistrate, Khagaria has taken cognizance

against the petitioner for the offences under Sections 406, 420,

467, 468 and 471 of the I.P.C..

It is alleged in the complaint petition that complainant
executed a sale deed in favour of the petitioner on 14.2.2012
for a consideration amount of Rs. 13,00,000/-. But the total
consideration money has not been paid by the petitioner to
complainant. The petitioner paid an amount of Rs. 1,57,000/- to
complainant. The agreement paper was also prepared by the
petitioner in favour of the complainant to make payment of the
amount of the consideration money on 15.2.2012 but the



petitioner did not pay the money even after preparation of the aforesaid agreement paper.

Learned counsel for the petitioner has submitted that the petitioner has not put his signature on the aforesaid agreement paper on 15.2.2012. Learned counsel for the petitioner made prayer to call for the report of the Forensic Science Laboratory where the relevant papers have been sent for examination of the genuineness of the signature of the petitioner.

A report was called for from the Court below which has been received from which it appears that case is pending in the Court below for framing of charge .

This Court, on going through the impugned order finds that learned Magistrate has after submission of charge sheet taken cognizance against the petitioners after finding *prima facie* case against the petitioner on the basis of the material available in the case diary. The learned Magistrate is only required to see *prima facie* case at the time of taking cognizance. The genuineness of signature on the agreement to sale dated 15.2.2012, can properly be adjudicated at the stage of trial. Therefore, this Court is not inclined to interfere with the impugned order. This Cr. Misc. petition is, accordingly,



dismissed.

Petitioner is granted liberty to raise all the points as raised in this petition at the appropriate stage during trial or at the time of framing of charge which shall be considered by the Court below in accordance with law without being prejudiced by the present order.

(Sanjay Priya, J)

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