

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.2535 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- PATNA

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1. Sabiha Quasim @ Sabia Khatoon, daughter of Md. M.A. Samad, wife of Dr. M. Karim, resident of Saharsa Town, P.S. and District- Saharsa, at present residing at Dadjee Maa Sweet Lane, Boring Road, P.S.- Srikrishnapuri, District- Patna
 2. Md. Quasim Ahmad, s/o late Md. Sharif,
 3. Salim Ahmad, s/o Md. Quasim Ahmad,
- Both resident of Dadjee Sweet Lane, Boring Road, P.S.- Srikrishnapuri, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Satyendra Kumar Singh, S/O Chandra Mahadeo Singh, resident of C.D.A. Colony, Flat No. 85, North Shashtrinagar, P.S.- Shashtrinagar, District- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Mishra, Advocate
Mr. Anjani Kumar Choudhary, Advocate.
For the Opposite Party/s : Mr. Kumar Virendra Narayan, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 06-03-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 30.08.2010 passed by the learned Judicial Magistrate, 1st Class, Patna, in Complaint Case No. 3156 (C) of 2004 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners and other accused person for the offences under Section 420 of the Indian Penal Code.

2. In the complaint petition it is alleged that the complainant entered into an agreement with the petitioners for



purchase of land as mentioned in the complaint petition and paid an amount of Rs.2,00,000/-. Thereafter, the complainant approached the petitioners several times to execute the sale deed after taking the remaining consideration amount but the petitioners always avoided and did not execute the sale deed in question. It is further alleged in the complaint petition that agreement was entered into on 27.03.2003 and on the same date, an amount of Rs.2,00,000/- was paid as 'Bai-Beyana' to the petitioner by the complainant. The complainant has further alleged in the complaint petition that petitioners have mentioned the excess land in the sale agreement whereas the petitioners were not in possession over such area, and therefore, the sale deed was not executed by the petitioners.

3. Heard learned counsel for the petitioners, learned counsel for the opposite party No. 2 and learned counsel for the State.

4. Learned counsel for the petitioners during hearing of this Criminal Miscellaneous application has submitted that petitioners are ready to make payment of Rs.2,00,000/- which he has received at the time of execution of the sale agreement.

5. Learned counsel for the opposite party No. 2 has appeared and submitted that aforesaid amount has been paid to the petitioners in the year 2003. The complainant was always ready to pay the remaining amount of consideration money but the same was not



received by the petitioners on one pretext or other and, ultimately, the sale deed was not executed. He has suffered loss for so many years. He was ultimately forced to approach the court by filing complaint petition. The complainant has incurred extra cost on account of such litigation caused by the petitioners.

6. Learned counsel for the petitioners has submitted that he has taken instruction from his clients, who have stated that they are ready to make payment of Rs.2,00,000/- to the complainant in installment within a period of one year. He has further submitted that remaining consideration money was not paid by complainant within time and, therefore, the sale deed was not executed by the petitioners.

7. In reply to the aforesaid submission learned counsel for the opposite party No. 2 has submitted that petitioner No. 1 has sent Pleader Notice on 13.02.2004, but prior to aforesaid legal notice, he has sent the legal notice to the petitioners. He has stated that he is ready to pay the rest consideration amount. He has submitted in reply to legal notice sent by petitioners that he has got demand draft prepared for the remaining consideration amount.

8. After looking into the entire case record and the impugned order, this Court finds that petitioners after entering into agreement with complainant, received an amount of Rs.2,00,000/- in



the year 2003. The complainant made request to execute sale deed after receiving the remaining consideration money but petitioners avoided on one pretext or other.

9. The complainant offered for compromise during pendency of this petition but petitioners were not keen to compromise the matter.

10. This Court does not find any illegality in the impugned order dated 30.08.2010 passed in Complaint Case No. 3156 (C) of 2004.

11. This Criminal Miscellaneous application is accordingly dismissed.

12. The petitioners are given liberty to make offer to compromise the case in the court below and in the event complainant agrees for such compromise, the court below will pass appropriate order in accordance with law. In the event the petitioners do not appear in the court below, the court below will issue non-bailable warrant of arrest against the petitioners to secure their appearance and shall proceed with the case in accordance with law.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	26/03/2018
Transmission Date	26/03/2018

