

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25430 of 2015

Arising Out of PS.Case No. -1026 Year- 2011 Thana -PATNA COMPLAINT CASE District-
PATNA

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Shankar Prasad @ Shankar Sao S/o - Late Kameshwar Sao, R/o - Sipara, Beside
Saw Mill, P.S.- By Pass , District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Manisha Gupta wife of Shri Ganesh Sao resident of Birla Mandir Road, In
front of Chruch Gate, P.S. Pirbahore, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal
For the State	:	Mr. Narsing Tanti, APP
For Opp. Party No. 2	:	Mr. Sunil Kumar

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 23-03-2018

Challenging the order dated 20th February, 2013 passed
by the Judicial Magistrate 1st Class, Patna, in Complaint Case No.
1026(C) of 2011 taking cognizance for offence under Sections 406
and 420 read with Section 120(B) IPC this application has been filed
under Section 482 Cr.PC.

On a bare reading of the complaint in question it is seen
that the allegations are that on the request of the applicant the
complainant agreed to enter into an agreement for sale and purchase
of land. Agreement for sale was executed and after execution of the
sale deed in pursuance to the agreement it has come to the notice of
the accused person that a civil suit with regard to the land in question



is pending. Inter alia, contending that in concealing the facts about the pendency of the civil suit offence under Sections 406 and 420 IPC is made out. The complaint has been registered and contending that mere pendency of the civil suit and its concealment even if is accepted on the face of it will not constitute an offence under Section 406 IPC. Therefore this application has been filed for quashing the proceedings.

Even though the learned counsel for the respondent-complainant argued that at this stage in a proceeding under Section 482 Cr.PC no case is made out for interference by this Court, but from the facts and circumstances of the case it is seen that after due negotiation and payment of consideration for the sale, the deed was executed and merely because some civil suit pertaining to the land in question is pending and the material that has come on record, namely, the complaint, ingredients necessary for constituting the offence under Section 406 and 420 IPC are not made out. The dispute in question is purely a civil dispute in the matter of transfer of land and for the same registration of a criminal case is not a proper remedy as the ingredients necessary for initiation of the criminal case or constitution of an offence are not made out and the dispute is a pure civil dispute with regard to sale and purchase of the land.

Accordingly, this application is allowed, the proceedings



initiated in Complaint Case No. 1026(C) of 2011 stands quashed.

(Rajendra Menon, CJ)

mr.l./-

AFR/NAFR	NAFR
CAV DATE	N.A.
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