

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.5775 of 2018

Arising Out of PS.Case No. -201 Year- 2014 Thana -KANKARBAGH District- PATNA

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Sudha Devi, W/o Raju Kumar Singh, R/o Mohalla- Ashok
Nagar, Road No. 8, Ram Lakhan Path, P.S.- Kankarbagh,
District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Lalit Kumar, S/o Brij Raj Prasad, R/o Village- Udaini,
P.S.- Gaurichak, District- Patna, at present Telecom
Engineering Colony, Mangal Chawk, Khemnichak, P.S.-
Ramkrishna Nagar, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar, Adv.

For the Opposite Party/s : Mr. S.M. Rahman, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 25-04-2018 The petitioner/complainant seeks cancellation of
bail granted to the opposite party No. 2 by order dated
05.12.2015, passed by the learned Judicial Magistrate, Ist
Class, Patna in connection with Kankarbagh P.S. Case No.
201 of 2014, which was lodged by the petitioner under
Sections 406, 420, 323, 379, 448 and 34 of the Indian
Penal Code.

It appears that the opposite party No. 2, in his



capacity as power of attorney holder of Ashok Sao, sold a plot of land to three persons including complainant/petitioner. It transpired later that the land owner/Ashok Sao had already sold off that property to somebody else. When the opposite party No. 2 approached the Court below for grant of anticipatory bail, an assertion was made by him that he did not know that the land had already been sold by Ashok Sao and he, genuinely believing himself to be a power of attorney holder with respect to the property of aforesaid Ashok Sao, sold it off to the complainant/petitioner for a consideration amount of Rs. 2,44,000/-. The opposite party No. 2 also impressed upon this Court that he is ready to return the amount which he had received from the complainant/petitioner in installments. The anticipatory bail petition of the opposite party No. 2 was disposed off with a direction to the Court below to consider the aforesaid assertion of the opposite party No. 2, in case he surrendered before the Court below. The learned Judicial Magistrate, Ist Class, Patna by order dated 05.12.2015, after taking into account the submissions made on behalf of the opposite party No. 2 and the fact that the total consideration amount of Rs. 2,44,000/- was deposited by opposite party No. 2 by way of demand draft in Court,



granted bail to him.

The complainant/petitioner preferred a miscellaneous case *vide* Cr. Misc. (B.C.) No. 41 of 2016 before the learned Additional Sessions Judge-X, Patna for cancellation of the aforesaid bail on merits, which was rejected.

Learned counsel appearing on behalf of the petitioner has submitted that merely depositing the consideration amount would not be sufficient. The opposite party No. 2 knew it from before that the land in question had already been sold by the land owner and, therefore, by selling the same plot of land for consideration, opposite party No. 2 had made himself liable for being prosecuted for the offences under Sections 406 and 420 of the Indian Penal Code.

True it is that merely by depositing the consideration money, the opposite party No. 2 shall not be absolved of his culpability, but here the question is of cancellation of the bail which was granted to him.

No good ground has been made out for cancellation of the bail granted to the opposite party No. 2.

This petition is, thus, dismissed.

(Ashutosh Kumar, J)

Praveen-II/-

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