

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.16222 of 2015

Arising Out of PS.Case No. -615 Year- 2011 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Dharmendra Kumar Ram, son of Late Vishanath Ram, R/o Mohalla- Bhawani
Tola, P.S.- Maner, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Bharharmdev Ram, son of Late Ramjanam Ram, R/o Mohalla- Bhawani Tola,
P.S.- Maner, District- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Madanjeet Kumar, Advocate
For the State : Dr. Rabindra Kumar, APP
For the Opposite Party No.2: Mr. Sudhir Kumar Sinha, Advocate
Mr. Ashok Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 27-04-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 24.05.2014 by which Charge has been framed against the petitioner and others for the offence under Section(s) 420, 468, 471 Indian Penal Code as well as order dated 23.11.2011 passed by the Judicial Magistrate, 1st class, Danapur, Patna, in Complaint Case No.615-C of 2011 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioner and others for the offence under Section(s) 420, 468, 471 Indian Penal Code.

Counsel for the petitioner has submitted that it is matter



of civil dispute. The Complainant himself has committed cheating with the petitioner. The Complainant has, initially, executed a sale deed in favour of Rekha Devi on 10.06.2011 with respect to land bearing Khata No.1422, Plot No.2137, Area 5 Khatha through sale deed No.3202 dated 10.06.2011. Thereafter, the Complainant has executed a Sale Deed in favour of the petitioner on 16.06.2011 appertaining to land of Khata No.1746 Plot No.1924, and Khata No.1245, Plot No.1889 total area 25 decimal. The petitioner filed mutation case vide Case No.2363 of 2011-12 before the Circle Officer, Maner, Patna, and *Jamabandi* of the land, in question, has been created in favour of the petitioner. Rent receipts have also been issued in favour of the petitioner. Thereafter, the Complainant has executed one *Sudhi Patra* on 23.06.2011 vide Deed No.3927 in favour of said Rekha Devi in which he has stated that wrongly Khata no.1422 bearing Plot No.2137 has been mentioned in the Sale Deed dated 10.06.2011, whereas, the Khata No.1746 bearing Plot No.1924 is correct in regard to 5 Khatha area. Xerox copy of the aforesaid *Sudhi Patra* has been annexed as Annexure-6.

Complainant has alleged in the Complaint Petition that the alleged Sale Deed dated 16.06.2011 was got executed by the petitioner forcibly after kidnapping the Complainant and his wife.

Counsel for the Opposite Party No.2 has appeared and



submitted that boundaries of both the lands are different. He has further submitted that when such infirmity in the Sale Deed executed in favour of Rekha Devi came to knowledge, then *Sudhi Patra* was executed by the Complainant.

This Court after hearing both the parties and perusing the materials on record finds that Sale Deed was already executed in favour of the Petitioner by the Complainant on 16.06.2011 with respect to the land of Khata No.1746, Plot No.1924, and Khata no.1245, Plot No.1889, total area 25 decimal. Thereafter, on the basis of aforesaid Sale Deed, the petitioner also got his name mutated in the government records after creating new *Jamabandi* and rent receipt has also been issued to him. Sale Deed has also earlier been executed by the Complainant in favour of Rekha Devi on 10.06.2011 with respect to land bearing Khata No.1422, Plot No.2137, Area 5 Khatha. After mutation in favour of the Petitioner with respect to the land, one *Sudhi Patra* was executed by the Complainant in favour of Rekha Devi on 23.06.2011 vide Deed No.3927 in which he has stated that wrongly Khata no.1422 bearing Plot No.2137 has been mentioned in the Sale Deed dated 10.06.2011 whereas, the Khata No.1746 bearing Plot No.1924 is correct in regard to 5 Khatha area.

In this manner, such action on the part of the



Complainant is totally a matter which can be adjudicated only in civil suit and no any criminal act could be attributed to the Petitioner. In fact, from such conduct of the Complainant, petitioner has been put to loss as he has earlier purchased the land through Sale Deed on 16.06.2011 after paying consideration money to the Petitioner and his name was also mutated.

Therefore, impugned order dated 24.05.2014 by which Charge has been framed against the petitioner as well as order dated 23.11.2011 passed by the Judicial Magistrate, 1st class, Danapur, Patna, in Complaint Case No.615-C of 2011 along with entire criminal proceeding against the petitioner is hereby quashed.

This application is, accordingly, **allowed**.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	12-05-2018
Transmission Date	12-05-2018

