

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.4462 of 2016

Arising Out of PS.Case No. -30333 Year- 14 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. Rama Shankar Singh Son of Late Sukhdeo Narayan Singh, Resident of Mohalla - Ram Charan, Village and P.S. Barahiya, District - Lakhisarai.
 2. Sumitra Devi, Wife of Sri Om Prakash Jagnani, Resident of Village and P.S. Barahiya, District - Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. M/S Newtech Residency Pvt. Limited Registered Office A-44, Gyandeeep Apartment, mayur Vihar, Phase- 1, New Delhi - 110091, Branch Office -502, 5th Floor, Kashyap Shailja Tower, Main Road, Kankarbag, P.S. - Kankarbag, Town and District - Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Nath Tiwary, Advocate Mr. Nawal Kishore Singh, Advocate
For the State	:	Mr. Nasir Ansari, A.P.P.
For the Informant	:	Mr. Ajay Kumar, Advocate Mr. Navin Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date: 11-04-2018

This application has been filed for quashing Complaint

Case No.30333(C) of 2014 registered vide order dated 2.12.14 by the Judicial Magistrate, Ist Class, Patna taking cognizance of an offence under Sections 406 and 420 I.P.C. against the present petitioners at the instance of respondent no.2. Instead of service of notice on respondent no.2, no one appears on behalf of respondent no.2. The matter is being listed for last one week continuously and today when the matter is taken up, no one appears.



Taking note of the aforesaid, I have heard learned counsel for the applicant, learned counsel for the State and perused the record.

It is the case of respondent no.2, the complainant, before the court below that it is a partnership firm engaged in the business purchasing land for construction marketing and pursuant to certain agreement made, the land in question as detailed in paragraph-2 of the complaint was purchased. It is stated that consideration for the same was granted, the sale deed was registered and thereafter, possession is not being handed over and when the complainant went to take the possession and make construction, certain persons prevented the complainant from entering into the land in question. Bases on these facts the complaint has been filed.

A perusal of the complaint goes to show that except for making statement with regard to purchase of land and payment of money, nothing is indicated as to who prevented from entering into the land in question and in what manner the alleged offence under Section 420 I.P.C. was committed.

On the contrary, from the material available on record, it is seen that for payment of the consideration of Rs.46,35,000/- as consideration for the sale, five post dated cheques were granted to



the petitioner. The first one was encashed and all the remaining four cheques bounced. Notice was issued and at the instance of the applicants, complaints have been registered against the respondent under Section 138 of the N.I. Act and the said complaints are pending before the court of competent jurisdiction. It is also seen that the complainant in the complaint only speaks about payment of consideration for execution of the sale deed, execution of certain sale deed and inaction on the part of the respondents in not executing further sale deed and granting them possession of the land in question and permitting them to make construction. Except for making this bald allegation, there is nothing on record to show that the ingredients necessary for constituting an offence under Section 406 or 420 of I.P.C. are made out. At best, on complete reading of the complaint it is seen that the complaint pertains to a civil dispute with regard to purchase and possession of the land in question and no criminal offence is made out.

In view of the above and the law laid down in the case of Gian Singh vs. State of Punjab, (2012) 10 SCC 303, Taramani Prakash Vs. State of Madhya Pradesh, (2015) 11 SCC 260, Amit Kapoor Vs. Ramesh Chander, (2012) 9 SCC 460 and Kans Raj Vs. State of Punjab, (2000) 5 SCC 207 this application is allowed. The proceedings against the applicants in Case No.30333(C) of 2014 and



the order dated 2.12.14 passed by the Judicial Magistrate, Ist Class,
Patna taking cognizance stand quashed.

(Rajendra Menon, CJ)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	13-04-2018
Transmission Date	

