

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30303 of 2016

Arising Out of PS.Case No. -1676 Year- 2014 Thana -SAHARSA COMPLAINT CASE District-
SAHARSA

=====

Mir Kuddus, son of late Mr. Aziz, Resident of Mohalla Saharsa Basti, PS Saharsa,
District Saharsa

.... Petitioner/s

Versus

1. The State of Bihar
 2. Md. Mukhtar Alam, Son of Late Badraddazama Khan
 3. Md. Shahnawaz, Son of Israil Ali
 4. Md. Amiruddin, Son of Late Jalimuddin
 5. Md. Manzoor Alam, son of Late Md. Ajmer
- All residents of Village Ward No. 38, Saharsa Basi, PS + District Saharsa

O.P. No. 2 resident of Village Dumrail, Ward No. 33, PS + District Saharsa

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s	: Mr. Md. Harun Quareshi
For the State	: Mr. Shyam Kumar Singh, APP 138

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 02-05-2018

Seeking quashing of order dated 01.04.2016 passed by the Judicial Magistrate, 1st Class, Saharsa in Complaint Case No. 1676C/2014 dismissing the complaint filed by the petitioner under Section 203,Cr.P.C. this application has been filed praying for registration and restoration of the complaint in question.

It was the case of the applicant who was the complainant in the present case that his brother negotiated to purchase a land bearing old Khata No. 118, old Khesra No. 2645 for consideration amount of Rs. 40,000/- and the date of registration was fixed on 17.09.2007. It is said that the accused persons did not pay the consideration and had promised to pay the same on the date of registration and on good faith the complainant and his brother went to the Registry Office. It is said that the sale deed was got registered by the complainant and his brother. It



is alleged that when the complainant asked for consideration money after the sale deed was executed the same was not paid. Allegations are made with regard to non-payment of consideration with regard to the sale deed which was executed in the year 2007. The complaint was filed in the year 2014 and the learned court below after taking note of the nature of the allegation made and the evidence that came on record passed the following orders:-

“Perused the case record. On perusal of the same, it appears that the complainant was examined on S.A and the other inquiry witnesses have been examined u/s 202 Cr.P.C. The complaint case is that the accused persons had negotiated with him to sale a land but they put him in wrong box and cause the sale deed executed of the another land, the land which was not negotiated. Further the accused persons did not pay to him the consideration amount of the land. The alleged land was registered a long year back in the year 2007. It is very interesting that the case has been filed after seven years. Further the complainant has never complained of non payment of the consideration amount before the Registry office concerned. The complainant has not filed any document that shows that the alleged accused persons have committed fraud with the complainant.

So considering all the facts and circumstances of the case and as per the complaint petition, S/A of the complainant and depositing of enquiry witnesses this court does not find any prima facie material on the record to proceed further against the accused persons. Hence this complaint petition is hereby dismissed u/s 203 of the Code of Criminal Procedure. Office Clerk is directed to deposit the case record to record room as per law.”

Even though learned counsel for the applicant tried to argue that the complainant was aware of the fact only when the respondents started making construction in the area in question, the applicant's own pleading goes to show



that they spoke about registration of the sale deed on 17.09.2007 and non-payment of the consideration money immediately thereafter at the time of registration. If the sale deed was registered in the year 2007 and the consideration was not paid then inaction and silence on the part of the petitioner for more than seven years before filing of the complaint is not permissible.

Taking note of the fact and circumstances of the case the learned court below has rejected the complaint. In my considered view, in doing so, the learned court below has not committed any error so apparent in nature that interference into the matter now in a proceeding under Section 482, Cr.P.C. is called for. The learned court below has considered all relevant factors and has given cogent reason for non-registration of the complaint and refusing taking cognizance of the same.

This application is, therefore, dismissed.

(Rajendra Menon, CJ)

mr1/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	03/05/2018
Transmission Date	

