

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27330 of 2018

Arising Out of PS. Case No.-2050 Year-2016 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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1. Masamat Akhtari @ Akhtari Khatoon, W/o Late Md. Magbool D/o-Ashar, R/o-Vill.-Lakhmikitta, P.S.-Sanaula, Distt.-Bhagalpur.
 2. Md. Ishaihak, S/o-Md. Mumtaz , R/o Vill.- Bhikhanchak, P.S.- Sanaula , District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. S.K. Jumman, S/o Late Karu , R/o Vill.- Palwa, P.S.- Sanaula, District-Bhagalpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Firoz Ahmad
For the Opposite Party/s : Mr. Sir Pramod Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 09-05-2018 Heard learned counsels for the petitioners and State.

The petitioners are apprehending arrest in a complaint case filed with accusation punishable under Sections 323, 120B, 420, 468 and 467 of the IPC. Neither the present application nor the impugned order suggests as to under which provision of the IPC, the cognizance of the offences has been taken.

The prosecution case as per the complaint petition filed by the complainant, Sk Jumman on 28.11.2016 is to the effect that the complainant/opposite party no.2 entered into an agreement with petitioner no.1 Masamat Akhtari @ Akhtari Khatoon for purchase of a land on 02.07.1997 and gave advance



of Rs. 25,000/-. The actual name of petitioner no.1 is Bibi Modiya which has also been mentioned in Title Suit No. 64 of 2002, but she, in order to sell the land, for which she entered into an agreement with the complainant, changed her name as Masamat Akhtari and executed the sale deed on 05.11.2015 in favour of Md. Abdul Kalam. Petitioner no.2, Md. Ishaihak is the witness to the sale deed. The complainant came to know about the sale deed on 20.11.2016 and as a result of execution of such sale deed, the complainant suffered loss to the tune of Rs. 75,000/- and when the complainant went to make protest, then the petitioners abused and threatened to assault the complainant.

It is submitted by learned counsel for the petitioners that there is nothing on record to suggest that how an unregistered agreement dated 02.07.1997 was surviving in the year 2016. There is no proof with regard to payment of Rs. 25,000/- to the petitioner. The name of petitioner no.1 is Masamat Akhtari and the complainant never entered into the agreement with petitioner no.1, whereas the purchaser of land, Md. Abdul Kalam has been granted privilege of anticipatory bail by a co-ordinate Bench of this Court vide Cr. Misc. No. 62042 of 2017. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal



antecedent.

Learned APP submits that thrust of accusation is against petitioner no.1.

Considering the nature of accusation arising out of civil nature of dispute and the fact that there is dispute with regard to actual name of petitioner no.1, whether her name is Masamat Akhtari or Bibi Modiya, the complainant entered into agreement with Bibi Modiya, who is neither accused nor the petitioner before this Court, let the above named petitioner be released on anticipatory bail in the event of arrest/surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Judicial Magistrate-1st Class, Bhagalpur in connection with Complaint Case No. 2050 of 2016, subject to the condition as laid down under Section 438(2) of the Cr. P.C.

(Dinesh Kumar Singh, J)

Amrendra/-

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