

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10262 of 2015

Arising Out of PS. Case No.-60 Year-2013 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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Shambhu Ram, Son of Sri Dwarika Ram, Resident of Village - Ahirauliya
Tola Laxmanwa, P.O. - Ahirauliya, Via - Ramgarhwa, P.S. - Ramgarhwa,
District - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sunarman Mahto, Son of Late Sukdeo Mahto
3. Smt. Rina Devi @ Sunarpati Devi, W/o Sunarman Mahto, Both of village -
Ahirauliya, P.S. - Ramgarhwa, District - East Champaran
4. Birendra Yadav, Son of Mahesh Yadav,
5. Krishna Ram, Son of Late Shanti Ram, Both residents of village - Ahirauliya
Tola Laxmanwa, P.O. - Ahirauliya, P.S. - Ramgarhwa, District - East
Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Anil Kumar, Advocate Mr. Anil Kumar Singh, Advocate
For the State	:	Mr. Sunil Kumar Pandey, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 03-09-2019

Heard learned counsel for the petitioner and the State.

2. The petitioner is complainant of Complaint Case No. 60 of 2013 brought against opposite party no. 2 to 5 for offences under Sections 406, 420, 120B, 465/34 of the Indian Penal Code and Section 3(x)(1)(x)(iv)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short the 'SC/ST Act'). By order dated 13.12.2013, the learned Sub-Divisional Judicial Magistrate, Raxaul took cognizance only for offence under Section 323 of the Indian Penal Code. Hence, the



petitioner challenged the cognizance order before the learned Sessions Judge in Cr. Revision No. 147 of 2014. The matter was heard by the learned Additional Sessions Judge-IX, East Champaran at Motihari and by order dated 31.01.2015, the criminal revision was dismissed. Both the orders are under challenge in this application, under Section 482 Cr.P.C.

3. According to complaint petition, the complainant had purchased Plot No. 1965 under Khata No. 105, area 2.5 decimals from opposite party no. 2-Sunarman Mahto through registered sale deed dated 01.10.2012. When the complainant went to take possession of the land, wife of Sunarman Mahto i.e. opposite party no. 3 Smt. Rina Devi @ Sunarpati Devi raised objection that she had already purchased the said land through registered sale deed from her husband on 31.05.2012. In the aforesaid circumstance, the complainant found that opposite party no. 2 acted with fraudulent and dishonest intention and suppressed the material fact that few months back, he had already sold the said plot to his wife and knowingly deceived the complainant to purchase the same property. As such, cognizance under Section 420 of the Indian Penal Code should also have been taken and since the matter relates to purchase of property of a member of the scheduled caste, the offence under SC/ST Act is also made out.



4. I have carefully gone through the two sale deeds. One is registered sale deed dated 31.05.2012 executed by opposite party no. 2- Sunarman Mahto in favour of his wife Rina Devi @ Sunarpati Devi whereby opposite party no. 2 sold away two plots. One was Plot No. 1966 which is not in dispute herein and another was Plot No. 1965, area 2 Katha 1 Dhur. The second sale deed is dated 01.10.2012 executed in favour of the complainant whereby opposite party no. 2 sold away 2 Katha 5 Dhur in Plot No. 1965 in favour of the complainant. The boundary of the lands mentioned in the sale deed is as follows:- North – Jeet Mahto, South Mankeshar Das @ Ganga, East Sunarpati Devi @ Rina Devi (wife of the vendor) and West Ramashray Yadav. Thus, it is evident that the complainant was conscious that in the boundary of the land purchased by the complainant, there was land of Sunarpati Devi. There is no material on the record to substantiate that in which plot Sunarpati Devi was there in the boundary nor there is any material to substantiate as to what was the total area of Plot No. 1965, so that this Court could have reached at definite opinion that in fact entire area of Plot No. 1965 was transferred initially in the name of wife of the vendor and thereafter in favour of the complainant knowingly to cheat the complainant.



5. Therefore, I am not inclined to interfere with the impugned order for simple reason that the disputed question of fact cannot be looked into while exercising power under Section 482 Cr.P.C. Hence, this application is dismissed as devoid of any merit.

6. The petitioner would be at liberty to pursue appropriate remedy under the law for redressal of his grievance, if so advised.

7. There is no allegation of making of false document, hence, question of forgery does not arise.

8. This application stands dismissed.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	09.09.2019
Transmission Date	09.09.2019

