

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23283 of 2019

Arising Out of PS. Case No.-2 Year-2019 Thana- DUMRAO District- Buxar

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1. Yogendra Yadav, aged about 48 years (Male), Son of Late Muktinath Singh
Resident of Village - Nokhpur Sonvarsha, P.S.- Nawanagar, District- Buxar
 2. Mahendra Singh, aged about 43 years (Male), Son of Ramjee Singh
Resident of Village - Raghunathpur, P.S.- Nawanagar, District- Buxar

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Arun Kumar Gupta and Mr. Vijay Anand, Advocates
For the Opposite Party No. 2	:	Mr. Shailendra Kumar Choubey, Advocate
For the State	:	Mr. Dashrath Mehta, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 16-07-2019

Heard learned counsel for the petitioners; learned APP
for the State and learned counsel for the opposite party no. 2.

2. The petitioners apprehend arrest in connection with
Dumraon PS Case No. 02 of 2019 dated 02.01.2019 instituted
under Sections 406, 420, 467, 468, 471, 120(B), 323 and 504 of
the Indian Penal Code.

3. The allegation against the petitioners and one other in
the case filed by the opposite party no. 2 is that they had taken Rs.
3,00,000/- in advance for sale of a land which belonged to some
other person and despite legal notice had not returned the money.



4. Learned counsel for the petitioners submitted that the land in question belongs to him and just because somebody else had filed title suit against the father of the petitioner no. 1, with regard to the land, the opposite party no. 2 wanted to get the money back without complying with the agreement between the parties and to exert undue pressure, the present case has been filed. It was further submitted that the matter is purely civil in nature as the opposite party no. 2 has the remedy of approaching the civil Court of competent jurisdiction in a money suit for recovery of any money which he may claim is due against the petitioners and filing of a criminal case is abuse of the process of the Court.

5. Learned APP fairly submitted that the matter relating to money transaction appears to be civil in nature.

6. Learned counsel for the opposite party no. 2 submitted that the petitioners had fraudulently shown the land as theirs even though a title suit was pending for the same land. However, on a query of the Court as to how it made any difference as a third party has filed suit claiming the said land without there being any interim or final order, learned counsel was not in a position to give any reply. On a further query of the Court as to how criminal proceeding is maintainable for return/recovery of any money which the opposite party no. 2 may claim to have given



to the petitioners, when the remedy is to move in Money Suit before the competent civil Court, again learned counsel was not in a position to reply to the query of the Court.

7. Having considered the facts and circumstance of the case and submissions of learned counsel for the parties, the provisional anticipatory bail granted to the petitioners by order dated 12.04.2019 stands confirmed.

8. The application stands disposed off.

(Ahsanuddin Amanullah, J.)

P. Kumar

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