

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 23716 of 2019

Arising Out of PS. Case No.-810 Year-2018 Thana- KHAJANCHI HAT District- Purnia

Pradeep Kumar Baranwal, aged about 50 years (Male) Son of Late Surya Narayan Baranwal, Resident of Village - Haldhar Para, P.S- Bajbaj, District- Kolkata, (West Bengal) At present village- Durgabari, P.S.- K. Hat, District - Purnia.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar Pathak, Advocate
For the State	:	Mr. Md. Arif, APP
For the Informant (O P No.2)	:	Mr. Nagendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 08-08-2019

Heard learned counsel for the petitioner; learned APP for the State and learned counsel for the informant, who has *suo motu* appeared.

2. A counter affidavit has also been filed on behalf of the informant.

3. The petitioner apprehends arrest in connection with K. Hat PS Case No. 810 of 2018 dated 26.11.2018 instituted under Sections 420, 406, 467 and 468 of the Indian Penal Code.

4. The allegation against the petitioner is that despite him entering into an agreement with the informant in an earlier complaint case filed by him against the petitioner where he agreed



to execute deed of sale in favour of the informant with regard to some land for which money was already taken as advance by the father of the petitioner.

5. Learned counsel for the petitioner submitted that the money was taken by his father and not by him. It was submitted that after the death of the father, the informant had filed Complaint Case No. 3663 of 2012, in which there was a compromise on the term that the money paid by the informant would be adjusted towards the land which was agreed to be registered in favour of the informant by the petitioner. It was submitted that such compromise was filed on 27.11.2017. It was submitted that on the very next day, the petitioner executed land in favour of the informant for an area of total 18 kathas 13 dhurs equivalent to 39 decimals 150 *karis*. Learned counsel submitted that after that there is nothing on record to show that any further amount was due and payable by the petitioner to the informant. It was submitted that even thereafter, when as per the compromise also, the informant was required to pay the remaining amount of consideration money, there has not been any offer, much less anything on record to show that despite being ready with the money and willing to pay it to the petitioner, the remaining lands were not transferred in his favour, the petitioner after one year, i.e., on 26.11.2018 had executed the



land in question in favour of third party. Learned counsel submitted that in any view of the matter, the issue relates to enforcement of the terms of a compromise agreement and furthermore, it relates to sale and purchase of land, which being a civil dispute, there ought not to be any criminal proceeding instituted. Learned counsel further submitted that thereafter in his deposition in the complaint case on 15.01.2018, the informant has clearly accepted that he has received his money. Thus, it was submitted that in view of the subsequent admission of him having received the money coupled with the fact that the so called compromise dated 27.11.2017 and the sale deed in favour of the informant was dated 28.11.2017 and thereafter on 15.01.2018, the informant having accepted receiving payment, no dues remained with the petitioner whatsoever.

6. Learned APP and learned counsel for the informant submitted that the petitioner had agreed to such terms of the compromise based on which complaint case was disposed off then him not faithfully and fully discharging his obligation in terms of such compromise clearly the intention was deceitful and fraudulent for which the criminal case has been instituted. However, on a specific query of the Court to learned counsel that how statement before the Court having received the money in the background of



compromise being dated 27.11.2017 followed by sale deed in favour of the informant dated 28.11.2017 and thereafter, on 15.01.2018 there being admission of having received the money, any criminal case is made out, learned counsel could not meet the query.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the application is allowed.

8. The provisional bail granted to the petitioner earlier by order dated 16.04.2019, stands confirmed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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