

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23652 of 2019

Arising Out of Case No.-1351 (C)Year-2017 Thana- PATNA COMPLAINT CASE District-
Patna

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Mukesh Kumar, Son of Brij Nandan Prasad Singh, Resident of Village-
Laxmichak, P.O.- Sarai, P.S.- Shahpur, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Kulpati Devi W/o Ramlakhan Rai Resident of Village- Tarachak, Dinapur,
Kam, Police Station- Khagaul, District- Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Janardan Prasad Singh, Sr. Advocate with Mr. Dipak Kumar, Advocate
For the Informant	:	Mr. Uday Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 01-08-2019

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

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2. The petitioner apprehends arrest in connection
with Complaint Case No. 1351 (C) of 2017 dated 19.12.2017
instituted under Sections 406/420/467/468/120/34 of the Indian
Penal Code.

3. The petitioner is accused of having enticed the
husband of the complainant-opposite party no. 2 and got the sale
deed of his land registered in his favour.

4. Learned counsel for the petitioner submitted that



the allegation is that on wrong pretext of getting an agreement registered, the informant's husband was taken to the Registry Office and sale deed was executed under influence of intoxication. Learned counsel submitted that the date of sale deed is 21.09.2017 when the State of Bihar was under prohibition and, thus, there could not have been any occasion for any intoxication to be administered to the husband of the complainant. Learned counsel drew the attention of the Court to copy of the sale deed which he has brought on record in which the photograph of the husband of the petitioner is printed, to demonstrate that from the said photograph it does not appear that the husband of the complainant was either intoxicated or was not in his proper senses. It was submitted that the photograph clearly shows that he was fully alert. He also drew the attention of the Court to copy of the pass book and entries made in it which tallies with the amounts which he had given to the husband of the complainant. It was submitted that the opposite party no. 2 had filed a complaint before the Senior Superintendent of Police, Patna, which, upon being sent to the local police station, the report was that the issue is purely civil in nature. Learned counsel submitted that the fact remains that there is dispute with regard to the sale deed executed by the



husband of the opposite party no. 2 which being a legal document in the eyes of law and executed before the statutory authority, and the law requiring the authorities before admitting the document to execution to directly ask the vendor as to whether he has executed the document and also whether he has received the entire consideration money and upon confirmation the document is registered, the same would thus, lead to the presumption in law that the document has been executed without there being any illegality or fraud. It was submitted that if at all the opposite party no. 2 has any *bona fide* or genuine complain, it cannot be settled by filing of a criminal case, which would be an abuse of the process of the Court and the only remedy available is to approach the Civil Court of competent jurisdiction for setting aside such sale deed.

5. Learned APP also took the stand that the dispute is civil in nature.

6. Learned counsel for the opposite party no. 2 submitted that the petitioner, right from the beginning, had the intent to cheat as he had described the son of the opposite party no. 2 to be a minor though he was a major on that day. It was further submitted that the land transferred was actually a building and not open land whereas in the sale deed it has been



shown as open land. It was submitted that it is not a case of civil dispute, since by administering intoxicant to the husband of the opposite party no. 2 he was taken to the Registry Office and deed executed.

7. Learned counsel for the petitioner, by way of reply, submitted that the complainant is the second wife and because she was not happy with the amount which the husband had given her, she had come to the petitioner asking for more money which was refused and thereafter she has filed the present complaint. It was further submitted that the falsity of the case would be clear from the fact that if the husband of the complainant, as is alleged, was fraudulently given intoxication for getting the sale deed executed then the allegation that he was taken on the pretext of getting into an agreement registered cannot be accepted at the same time. If the husband of the complainant is said to have gone with the intention that he shall execute an agreement, it clearly demonstrates that he was in his senses and not under intoxication and, thus, once he had gone for a specific purpose of getting an agreement executed, there cannot be any question that a man in his senses would thereafter agree for sale, especially when he admitted his execution on the document before the Registering Officer.



8. Considering the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs.15,000/- (fifteen thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-I, Danapur, Patna in Complaint Case No. 1351 (C) of 2017, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

(Ahsanuddin Amanullah, J)

Anjani/-

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