

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15285 of 2015**

Arising Out of PS. Case No.-95 Year-2012 Thana- SHASTRINAGAR District- Patna

Sabita Devi, W/o Om Prakash @ Munchun Singh, R/o Mohalla - Madrasa
Gali, Khazpur, Raza Bazar, P.S. - Shastri Nagar, District - Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manoj Kumar Dubey, S/o Late Bashisht Dubey, resident of C/o P.N. Singh,
Holding No. 20, Navneet Colony, Rukunpura, Baily Road, P.S. - Rupaspur,
District - Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. M. Kishore Singh, Advocate Mr. Mithilesh Kumar Singh, Advocate
For the O.P. No. 2	:	Mr. Sanjay Kumar, Advocate
For the Opposite Party/s	:	Mr. Hirday Pd. Singh, APP

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT**

Date : 04-07-2019

Heard learned counsel for the parties.

2. Petitioner is wife of co-accused Om Prakash @ Munchun Singh. Petitioner has challenged order of cognizance dated 20.12.2014 passed in Shastri Nagar P.S. Case No. 95 of 2012 corresponding to Tr. No. 3201 of 2015 whereby cognizance has been taken against the petitioner for offences under Sections 406, 420, 323 of the Indian Penal Code and Section 138 of the Negotiable Instrument Act.

3. The complaint based FIR reveals that allegation against the petitioner is that she met with the wife of the complainant through a relative. The petitioner further disclosed



that her family member deals in land. Thereafter intimacy developed between the complainant's family and to that of the petitioner. The husband of this petitioner and the petitioner assured to the complainant that there is no dispute on the land which the complainant wanted to purchase and agreement to sale was executed by the husband of the petitioner. Further allegation is that the accused did not execute the sale deed even after receipt of consideration money.

4. Submission of learned counsel for the petitioner is that though word "accused" has been used in the complaint everywhere but it is not disputed that the petitioner was not involved in any of the dealing along with her husband either in execution of the sale deed or receipt of consideration money nor the consideration money was deposited in the bank account of the petitioner. Petitioner has been implicated just for the reason that she is wife of the co-accused.

5. Learned counsel for the complainant opposed the prayer on the ground that initiation of relationship started on persuasion of this petitioner. Hence, prima facie, material is there. It has also come in evidence that the plot which was subject matter of sale was found to be forged.



6. This Court fails to understand what type of forgery was found in the said plot-whether the plot was not of the executor of the agreement or the same was already sold by the executor of the agreement? Only vague allegation is stated in the complaint petition. In absence of direct evidence of cheating etc. against the petitioner, criminal prosecution of the petitioner would be an abuse of the process of the Court. Hence, the impugned order is set aside and this application stands allowed.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
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