

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47302 of 2019

Arising Out of PS. Case No.-2076 Year-2015 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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1. Amarnath Gupta, Aged about 52 years, Male, Son of Late Sheetal Prasad Sah, Resident of Village Ekchari, P.S. Ekchari, District Bhagalpur.
 2. Murlidhar Mandal, Aged about 46 years, Son of Late Ghanshyam Mandal, Resident of Village Ekchari, P.S. Ekchari, District Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Akhilesh Kumar, Son of Late Bashist Narayan Singh, Resident of Village Vikramshila Nagar, Kahalgoan, Ward No.6, P.S. Kahalgoan, District Bhagalpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Swapnil Kumar Singh
For the Opposite Party/s : Mr.Ashok Kumar

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 30-07-2019 Heard learned counsel for the petitioners, learned Additional Public Prosecutor for the State as well as learned counsel appearing on behalf of the complainant.

Petitioners apprehend their arrest in Complaint Case No.2076 of 2015, registered under Sections 406, 420, 465, 468, 471 and 120B of the Indian Penal Code.

The complainant in sum and substance alleged in the complaint petition that Amarnath Gupta, petitioner no.1, Rajesh Kumar and Murlidhar Mandal, petitioner no.2 came and persuaded him to purchase a piece of land of Khata No.879,



Khesra No.1870 on consideration of Rs.23,80,000/-. On payment of Rs.23,80,000/-, Raj Kishore Gupta executed the sale deed. The complainant got his name mutated but later on the complainant came to know that the land was standing in the name of Rajesh Kumar Gupta and petitioners gave impression that the land is of Raj Kishore Gupta but he got no title over the land.

Learned counsel for the petitioners submits that the petitioners are witness and identifier of the sale deed. The complainant did not make any allegation that the petitioners received any money from the complainant. It was Raj Kishore Gupta who executed the sale deed in favour of the complainant after receiving the entire consideration amount, i.e., Rs.23,80,000/-. It is further submitted that no offence under any section of the Indian Penal Code is made out against the petitioners. It was the duty of the complainant that before purchasing the land, he should have inquired and verified the documents about the title of his vendor and for that the petitioners cannot be held responsible.

On the other hand, the learned counsel for the complainant as well as the learned Additional Public Prosecutor vehemently opposed the prayer for anticipatory bail and



submitted that Title Partition Suit No.124 of 1995 was filed by Raj Kishore Gupta and others. Sheetal Prasad Sah, father of Raj Kishore Gupta and others were defendants. The partition took place between the brothers and other family members. The land fell in the share of Parasnath Gupta but name of Rajesh Kumar Gupta was appearing in the records of rights. Raj Kishore Gupta had no right to sell the land. It is further submitted that Amarnath Gupta, petitioner no.1 is also one of the brothers and co-sharers of Raj Kishore Gupta who was party in the suit. Amarnath Gupta had also sold the lands to different persons in excess of his share but even then Amarnath Gupta, petitioner no.1 persuaded the complainant to purchase the land from Raj Kishore Gupta.

It appears from the record that of course the petitioners are alleged to have persuaded the complainant to purchase the land from Raj Kishore Gupta but it was the duty of the complainant to look into the records and the documents showing title of his vendor. The petitioners are only witness and identifier of the sale deed.

Taking into consideration the facts aforesaid, let petitioners, above named, in the event of their arrest or surrender before the court below within a period of four weeks



from the date of receipt of this order, be enlarged on bail on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned A.C.J.M.-XIV, Bhagalpur in connection with Complaint Case No.2076 of 2015, subject to the conditions laid down under Section 438(2) Cr.P.C.

(Prabhat Kumar Jha, J)

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