IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30084 of 2013

Arising Out of Case No.-2050 Year-2011 Thana- VAISALI COMPLAINT CASE District- Vaishali

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Anuradha Mehta @ Anuradha Mundkur D/O Late Ravindra Nath Mehta W/O Balmiki Mundkur Resident Of 36/201, Heritage City, Gurgaon, Haryana.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. Pradeep Kumar Paswan S/O Late Binul Ram Resident Of Mohalla Hela Bazar, P.S. Hazipur Town, District- Vaishali.
3. The Superintendent of Police, Vaishali.
4. Director of Investigation, Income Tax, Bihar
5. Principal Chief Commissioner of Income Tax, Bihar and Jharkhand.

... ... Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vivekanand Singh with Mr. Sandeep Kumar and Mr. Ajit Kumar, Advocates
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the O. P. No. 2	:	Mr. Umakant Shukla with Mr. Sanjay Kumar Tiwary and Mr. Sakti Suman Kumar, Advocates
For the E.D.	:	Mr. S. D. Sanjay, Addl. Solicitor General

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 02-04-2019

Heard learned counsel for the petitioner; learned A.P.P. for the State and learned counsel for the opposite party no. 2, who has entered appearance.

2. Pursuant to order dated 11.02.2019, report has been submitted by the Court below as well as the Superintendent of Police, Vaishali (opposite party no. 3).

3. As per the direction of the Court, both the Superintendent of Police, Vaishali as well as the Court concerned had to send a report after making the opposite party no. 2 appear to verify as to whether he was a real or fictitious person, along with proof of his identity. From the reports, it transpires that the opposite party no. 2 has appeared, both before the police as well as the Court below along with the copy of his Driving License and Aadhar Card. With regard to the other question of the Court, as to whether he knew the petitioner, he has reiterated paying Rs. 30,00,000/- in cash to the petitioner. The same has been submitted.

4. The petitioner has moved the Court under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') for the following relief:

> *" That this is an application for quashing the order dt. 04.09.2012 passed by the Sri R R Singh, Judicial Magistrate, Vaishali Hazipur in complaint Case no. C-1-2050/11 by which cognizance of offence Under Section 420 of IPC has been taken against the petitioner. The petitioner further prays that the CBI/ the CID of the State of Bihar may be directed to enquire into the filing of the present false case by the complainant by manufacturing and forging documents."*

5. At the very outset, learned counsel for the opposite party no. 2 submitted that he was ill-advised to file a complaint case as it is a purely civil dispute and the application may be allowed.

6. Learned counsel for the petitioner submitted that the Court, including the Hon'ble Supreme Court, has repeatedly held that in matters relating to land and money dispute, being purely of civil nature, institution of criminal case is an abuse of the process of the Court and the same have been quashed. For such proposition, learned counsel relied upon a decision of the Hon'ble Supreme Court in **Murari Lal Gupta v. Gopi Singh** reported as **(2005) 13 Supreme Court Cases 699.**

7. Learned A.P.P. also fairly submitted that purely civil disputes should not be allowed to be given criminal colour.

8. Considering the aforesaid, the Court finds that continuance of the criminal proceeding against the petitioner is an abuse of the process of the Court.

9. Accordingly, the application is allowed. The entire criminal proceeding, including the order dated 04.09.2012 passed in Complaint Case No. C-1-2050 of 2011 pending before the Judicial Magistrate, Vaishali at Hajipur is quashed.

10. It goes without saying that the parties shall be at liberty to pursue their remedy, as may be available to them, in law.

11. Before parting, the Court, being conscious of its duty cast under Section 482 of the Code with regard to both preventing the abuse of the process of the Court and to secure the ends of

justice, deems it important to get an enquiry conducted by the Income Tax authorities as to whether Rs. 30,00,000/- in cash, which is said to have been paid by the opposite party no. 2 to the petitioner is reflected from the contemporary returns filed by the opposite party no. 2. This would also be in the background of whether law permits such heavy cash transactions without there being any agreement, muchless registered agreement.

12. Accordingly, the Court requested Mr. S.D. Sanjay, learned Additional Solicitor General, to take notice on behalf of the Director, Investigation, Income Tax, Bihar and the Principal Chief Commissioner of Income Tax, Bihar and Jharkhand, Patna.

13. The above two officers be impleaded as opposite parties no. 4 and 5 in the present application. Let necessary correction be made by learned counsel for the petitioner in the cause title during the course of the day. Mr. S.D. Sanjay, learned Additional Solicitor General accepts notice on behalf of the newly added opposite parties no. 4 and 5. Learned counsel for the petitioner undertakes to serve two complete legible copies of the pleadings on him by tomorrow. Copies of the report submitted by the police as well as by the Court below be also given to Mr. S.D. Sanjay, learned Additional Solicitor General, by the Registry.

14. Let a thorough enquiry be conducted by the opposite parties no. 4 and 5 with regard to the averment of the opposite party no. 2 having paid Rs. 30,00,000/- in cash to the petitioner, covering all aspects, including as to whether the same is reflected from the contemporary returns filed and also as to whether such transaction is permissible in law.

15. The report be submitted latest by 15th May, 2019 and the matter be listed on 17th May, 2019 under the heading ‘For Orders’.

16. Let the name of Mr. S.D. Sanjay, learned Additional Solicitor General be printed in the cause list in the column of the opposite parties.

(Ahsanuddin Amanullah, J)

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