

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.50773 of 2018**

Arising Out of PS. Case No.-176 Year-2016 Thana- PATNA COMPLAINT CASE District-  
Patna

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1. Ajay Kumar, S/o Rewati Raman Prasad,
  2. Sneh Lata Kumari, W/o Ajay Kumar , Both Petitioner No. 1 and 2 are R/o J-65, PC Colony, P.S.- Kankarbagh, District- Patna.

... .. Petitioner/s

Versus

1. State of Bihar
2. Ram Shankar Prasad Singh, S/o Late Ayodhya Singh, R/o Vill.- Sakarbar Tola, P.O.- Mokama Main Road, P.S.- Mokama, District- Patna.

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Sumeet Kumar Singh

For the Opposite Party/s : Mr.Sri Madhuranand Jha

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**

**ORAL ORDER**

5      03-04-2019                      Heard learned counsels for the petitioners and the State.

The petitioners are apprehending arrest in a complaint case filed with accusation under Sections 420, 406, 323, 504 and 120B of the IPC, wherein process has been directed to be issued after cognizance being taken.

It appears that vide order dated 25.09.2018, notices were issued to opposite party no.2/complainant and office note 19.02.2019 reflects that ordinary process of notice has been received by the nephew of opposite party no.2. Hence, in



pursuance to the affidavit, filed on behalf of the petitioner to the effect of jointness of opposite party no.2 with his nephew, this Court, vide order dated 14.03.2019, treated the notices, issued to opposite party no.2 as deemed valid service. Thereafter, the matter has been listed today under the heading 'For Admission', but none appears on behalf of opposite party no.2. In the circumstances, the application is being heard on merits.

The prosecution case, as per the complaint petition is that the complainant, Rama Shankar Singh was inclined to purchase certain pieces of land, hence he approached the co-accused Rewati Raman Prasad. On 15.03.2019, co-accused Rewati Raman Prasad and Monindar Bhushan Prasad agreed to sale their three kathas and two khatas of land, respectively at the rate of Rs. 15 lacs per katha. Consequently, the total consideration amount was fixed as Rs. 75 lacs and subsequently, an agreement to sale was executed between co-accused Rewati Raman Prasad, Monindar Prasad and the complainant, Rama Shankar Singh when a cheque of Rs. 2 lacs was given as advance and consequently, the complainant paid Rs. 75.12 lacs to the land owners, but neither the sale deed with regard to the land in question was executed nor the money was returned. It is alleged against petitioner no.2, being the daughter-in-law of co-accused,



Rewati Raman Prasad that out of total consideration amount, Rs. 50,000/- was paid to her whereas it is alleged against petitioner no.1, being the son of co-accused Rewati Rama Prasad that when the complainant went to meet co-accused Rewati Raman for requesting him either to execute the sale deed or to return the money, he assaulted the complainant.

It is submitted by learned counsel for the petitioners that the petitioners are the son and daughter-in-law of co-accused Rewati Raman Prasad and the agreement to sale was executed between co-accused Rewati Raman Prasad, Monindar Bhushan Prasad and the complainant, Rama Shankar Prasad. The petitioners are not the party to the agreement. It is further submitted that a suit for specific performance was also preferred by the complainant, being Title Suit No. 84 of 2016, which was pending before learned Sub-Judge, Patna, but subsequently, the said suit was dismissed due to non-payment of Court-fee and non-prosecution hence, for redressal of absolutely a civil nature of dispute, the criminal forum has been chosen by the complainant just to harass the petitioner. Moreover, co-accused Rewati Raman Prasad, who was the party to the agreement to sale, has been granted privilege of anticipatory bail by a Co-ordinate Bench of this Court, vide order dated 02.01.2019,



passed in Cr. Misc. No. 43950 of 2018. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP submits, however, submits that petitioner no.2 also received Rs. 50,000/- as part of the consideration amount from the complainant for transfer of the land and petitioner no.2 assaulted the complainant.

Considering the rival submissions of the parties, keeping in view that the petitioners are not the party to the agreement to sale, which is the basis for lodging of the complaint case and co-accused Rewati Raman Prasad, who was the party to the agreement to sale, has been granted privilege of anticipatory bail by a Co-ordinate Bench of this Court, coupled with the statement made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent, let the above named petitioners be released on anticipatory bail in the event of arrest/surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Patna in connection with Complaint Case No. 176C of 2016, subject to the condition as laid down under Section



438(2) of the Cr. P.C.

**(Dinesh Kumar Singh, J)**

Amrendra/-

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