

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69480 of 2018

Arising Out of PS. Case No.-2286 Year-2015 Thana- PURNIA COMPLAINT CASE District-
Purnia

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Pramod Kumar Son of Late Ram Janma Singh @ Ram Janam Singh, resident of Mohalla- Khiru Chowk Bhattha Bazar, P.S. K.Hat Sahayak, District- Purnea.

... .. Petitioner/s

Versus

1. State of Bihar.
2. Shivendra Prasad Sah, Son of Late Tilakdhari Sah, resident of Village- Sarboday Nagar, Bhattha Bazar, P.S.- K. Hat (Sahayak), District- Purnea.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amit Kumar Anand
For the Opposite Party/s : Mr. Sri Abhay Kumar Roy

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

2 09-01-2020 Heard the parties.

2. This petition under Section 482 of Cr.P.C. has been filed to quash the order dated 31.08.2018 passed by learned Sessions Judge, Purnea in Cr. Revision No. 25 of 2018/CIS No. 25 of 2018 dismissing the revision application of petitioner and affirming the order dated 25.01.2018 passed by learned Judicial Magistrate 1st Class, Purnea in Complaint Case No. 2286 of 2015 by which petition of petitioner for calling the executor of the two sale deeds as witness was dismissed.

3. Opposite party No. 2 filed a complaint case No. 2286 of 2015 before the learned Chief Judicial Magistrate, Purnea stating therein that complainant gave Rs. 4,02,000/- to



petitioner on credit but he did not refund said amount. Petitioner handed over two cheques of Allahabad bank of Rs. 4,02,000/- to the complainant but same were dishonoured on account of insufficient balance.

4. Petitioner filed a petition dated 30.08.2017 that sale deeds produced by the complainant were executed by the wife of the complainant, namely, Lalita Devi as such she is competent witness to depose in respect of sale deeds as such she may be summoned to appear as witness. Thereafter he filed a petition dated 10.10.2017 under Section 137 read with Section 138 of Indian Evidence Act for examination of Lalita Devi as sale deeds were executed by wife of complainant Lalita Devi as such her examination was necessary to secure ends of justice. However, both petitions were rejected by the court below by the order as impugned.

5. The learned court below after considering the rival submissions of the parties held that registered sale deeds has already been marked as Exhibits in view of Section 74 of Evidence Act, as such, there is no requirement of examination of witness Lalita Devi as she has not been examined as witness by complainant and only sale deed executed by her have been produced as a document. Present complaint case has been filed



with respect to dishonour of cheque issued by petitioner in favour of complainant on account of insufficient fund and execution of the sale deed is not any issue before the court. Defence has not doubted about the genuinity of sale deed. Sale deed produced is certified copy which comes within the definition of public document and is admissible in evidence and as such sale deed has already been marked as Exhibit. Two petitions dated 30.08.2017 and 10.10.2017 has been filed only to delay the criminal proceeding and closed the evidence of defence.

6. Against rejection of his petitions, petitioner preferred criminal revision No. 25 of 2018/CIS No. 25 of 2018 before the Sessions Judge, Purnea and after hearing the parties has dismissed the revision petition filed by petitioner being devoid of any merit.

7. This Court does not find any error or illegality in the orders passed by the court below and accordingly present criminal miscellaneous petition is dismissed.

(S. Kumar, J)

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