

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15764 of 2015

Arising Out of PS. Case No.-73 Year-2012 Thana- RAJIVNAGAR District- Patna

Ratna Gupta Wife of Late Umesh Chandra Gupta, Resident of B-702, Rajhans Apartment, Ahinsha Khand, Indrapuram, District- Ghaziabad, State- Uttar Pradesh

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Naresh Prasad Sharma, House No.97, Ashiyana Nagar, Phase-I, P.S.-Rajiv Nagar, Patna-25.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Anjani Kumar Jha,Adv
	:	Kumari Shubham, Adv
For the State	:	Mr.Sunil Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 08-01-2020

The petitioner has been arrayed as one of the accused in connection with Rajeev Nagar P.S. Case No.73 of 2012.

2. By the impugned order dated 31.07.2014, the learned Judicial Magistrate 1st Class, Patna has taken cognizance for offences under Sections 420/34 I.P.C. as well as under Section 138 of the Negotiable Instrument Act against three person including the petitioner.

3. In this application under Section 482 Cr.P.C., the petitioner has challenged the order of cognizance on the ground that neither offence under Section 420 I.P.C. is prima facie made out against the petitioner nor the offence under Section 138 of the Negotiable Instrument Act is made out for simple reason that the



petitioner had not issued any instrument in favour of the complainant which allegedly got dishonoured nor the petitioner had ever any dealing with the complainant to say that the petitioner was carrying dishonest and fraudulent intention at the time of agreement.

4. Heard learned counsel for the petitioner and the State. No one appears on behalf of opposite party No.2.

5. According to FIR, the informant had agreed to purchase land and house of the petitioner pertaining to Khata No.237 Plot No.45 with co-accused-Sunil Sharma and Amrendra Sharma. Those accused had assured the complainant that they have been authorized, to sale the said land, by the petitioner. Thereafter, the petitioner also allegedly rectified that she had authorized them to sale her land. Later on different installment of the consideration money was paid to those accused by the complainant and the co-accused continue assuring that if the land would not be transferred they would refund the money. Later on the transaction of transfer did not materialize and the refund cheque issued by those accused person allegedly bounced.

6. The material disclosed in the FIR does not reveal that the petitioner was ever involved in any dealing with the complainant. Therefore, there is no material to substantiate that the



petitioner deceived the complainant with fraudulent and dishonest intention. The petitioner had never issued a refund cheque. Therefore, no case under Section 138 of the Negotiable Instrument Act is apparently made out.

7. Consequently, criminal prosecution of the petitioner is an abuse of the process of the Court. Hence, the impugned order and the subsequent criminal proceeding stands quashed against the petitioner only and this application is allowed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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