

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1611 of 2019

Arising Out of PS. Case No.-82 Year-2019 Thana- MEHANDIA District- Jehanabad

Birendra Kumar, Son of Jageshwar Singh, Resident of Village- Mehandia,
P.S.- Mehndia, District- Arwal.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Sectty. Home Deptt. Bihar Patna.
2. The Director General of Police, Bihar, Patna. Bihar, Patna.
3. The Inspector General of Police, Patna, Bihar. Bihar, Patna.
4. The Deputy Inspector General of Police, Gaya. Gaya.
5. The Superintendent of Police, Arwal. Arwal
6. The Deputy Superintendent of Police, Arwal. Arwal.
7. The Station House Officer Mehandia, Arwal. Arwal.
8. Sri Sita Ram Singh, S/o Late Nathuni Singh, R/o Village- Bania Bigha, P.S.
and District- Arwal.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Raj Narayan Mishra, Adv.
For the Respondent/s : Mr.Md. Irshad, AC to SC-1

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 13-02-2020 Heard learned counsel for the petitioner and the State.

Petitioner in the present case is seeking quashing of the First Information Report giving rise to Mehandia P.S. Case No.82 of 2019 registered for the offence under Sections 406, 420 and 506 of the Indian Penal Code.

Learned counsel for the petitioner submits that on perusal of the FIR it would appear that the informant claims to have paid a sum of Rs.14,50,000/- to this petitioner through various cheques, which were the bearer cheques, allegedly on



the pretext of the petitioner that he has got the power to sell the land being Secretary of Radha Swami Satsang Vyas Committee. It is the case of the petitioner that on a bare reading of the FIR it would appear that the dispute is with respect to the sale and purchase of a piece of land and on its own no offence much less any offence under Sections 406 420 and 506 I.P.C. would be made out.

Learned counsel submits that it is a pure and simple money claim arising out of a civil dispute so the FIR should be quashed. In this connection, he has relied upon a judgment of the learned coordinate Bench of this Court in the case of Chandrakant Kumar Vs. the State of Bihar and Anr. rendered in Cr.W.J.C. No.528 of 2019.

On the other hand, learned counsel for the State has opposed this application as according to him there are allegations in the FIR that this petitioner had by misrepresenting himself and committing fraud received a sum of Rs.14,50,000/- from the informant on the pretext of selling him the land of Radha Swami Satsang Vyas Committee, the said land was not open for sale, still he represented falsely to the informant in order to induce him to part with his money. The FIR also contains the allegation that the petitioner had threatened the



informant if the informant would bring it to the notice of the police and dire consequences were threatened to the family of the informant. It is also alleged that the petitioner has cheated several other persons in the same manner.

Having heard learned counsel for the petitioner and the State as also on going through the records, this Court is of the considered opinion that there being an allegation in the name of selling the land of Radha Swami Satsang Vyas Committee being Secretary of the said Samiti the petitioner is said to have received a sum of Rs.14,50,000/- through cheques though bearer cheques, but it is not denied that the petitioner has received the amount through those bearer cheques. The allegation is that the land of the said Committee were not available for sale but the petitioner misrepresented to the informant that he would be competent to sell the land and on this pretext he received the cheques.

So far as the judgment of the learned coordinate Bench of this Court is concerned, it appears from perusal of the said judgment that in the said case as per the allegation the complainant had paid certain amount to the accused persons for purchasing a piece of land under an agreement. The possession of the plot was also given to him. While accepting the last



installment, the accused had promised that he would intimate the date for executing the sale deed but after some time accused persons neither executed the sale deed nor returned the amount taken by them and sold the land to another person. The accused in the said case had refused to execute the sale deed.

The learned coordinate Bench after hearing the matter took a view that the allegations made in the complaint was quite vague as neither the details of the land were provided for which the agreement was alleged to have been made nor it was shown to the Court that the payments were made by the complainant in cash or through any negotiable instrument as to who received the payments made by the complainant. It seems that because of those apparent vagueness in the complaint petition the coordinate Bench has been pleased to quash the order taking cognizance and issuance of summons to the accused in the said case as according to learned coordinate Bench continuation of the criminal proceeding in the said circumstance would have been an abuse of the process of the Court.

The facts of the present case are clearly distinguishable. In this case it is specifically alleged that the petitioner has misrepresented to the informant regarding his power to sell the land and on that pretext he received a sum of



Rs.14,50,000/- through various cheques from the complainant.

It is not in dispute that the petitioner had received the amount and as such vagueness which prevailed with the learned coordinate Bench to quash the order taking cognizance in the case of Chandrakant Kumar (supra) are not available in the present case. Moreover, this Court also finds that presently only FIR has been lodged, the matter is still under investigation and mere lodgment of the FIR cannot be said to be initiation of a criminal proceeding as it is well settled that the lodgment of the FIR is necessary to investigate the matter but the same is not violative of Article 20 and 21 of the Constitution of India and it is only when the charge-sheet is filed by the investigating agency and the accused is summoned by the court, the criminal proceeding begins.

At this stage, when the investigation is still going on, this Court is of the considered opinion that no interference be made with the investigation.

This writ application has, thus, no merit. It is dismissed accordingly.

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(Rajeev Ranjan Prasad, J)

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