

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87081 of 2019**

Arising Out of PS. Case No.-2339 Year-2018 Thana- VAISALI COMPLAINT CASE
District- Vaishali

AJAY KUMAR @ AJAY KUMAR SAH Son of Late Thakur Pd. Gupta
Resident of Village- Anwarpur, P.S.- Sarai, District- Vaishali at Hajipur.
... .. Petitioner/s

Versus

1. The State of Bihar
2. Mostt. Yashoda Devi Wife of Late Thakur Prasad Sah Resident of Village-
Anwarpur, P.S.- Sarai, District- Vaishali at Hajipur.
... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Navjot Yesu
For the Opposite Party/s : Mr.Jharkhandi Upadhyay

**CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT**

Date : 10-01-2020

Heard learned counsel for the parties.

This application has been filed under Section 482 of the Cr.P.C for quashing the order taking cognizance dated 16.01.2019 passed in Complaint Case No.2339 of 2018 passed by learned ACJM- X, Vaishali at Hajipur, by which learned court below has taken cognizance under Sections 323, 341, 504 and 379 of the Indian Penal Code against the petitioner.

Complainant opposite party who is mother of petitioner filed a complaint case giving rise to Complaint case No.2339 of 2018 alleging therein that her husband had constructed a house and from the rent of said house, her day-to-day expenses were met, however, by playing fraud sale deed with respect to said house was got executed by his son



(petitioner) in his favour. It has further been alleged that on 21.08.2018 at about 2:00 p.m., the complainant demanded some money from the petitioner, for her treatment but he refused to give her any money and also drove her out from the house as such, she was forced to take shelter in the house of her daughter.

Complainant was examined on SA and in support of her case, Inquiry witnesses were examined and on the basis of materials available on record, the court found that *prima facie* case is made out against the petitioner and took cognizance under Sections 323, 341, 504 and 379 of the Indian Penal Code.

At the stage of taking cognizance the court is to consider on the basis of materials available on record whether any *prima facie* case is made out against the accused or not. Meticulous examination of evidence and its pros and cons or sufficiency and adequacy of evidence cannot be gone into by the trial court at the time of taking cognizance.

This court in its inherent jurisdiction cannot substitute its own finding with respect to sufficiency, adequacy or relevancy of material on the basis of which trial court found *prima facie* case to be made out against petitioner as same is within exclusive domain of trial court.

There is no illegality or irregularity in the order



passed by the trial court as impugned.

Accordingly, this criminal miscellaneous petition is
dismissed.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.01.2020
Transmission Date	18.01.2020

