

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4411 of 2018

Arising Out of PS. Case No.-380 Year-2016 Thana- KOTWALI District- Patna

=====

Rajeev Ranjan Singh @ Raju Singh, S/o Late Ram Chandra Singh, R/o Village- Bajid Pur, P.S.- Bihta, District- Patna, Where as presently residing at Flat No.- 401, Pushpa Mension Apartment , Viveka Nand Marg, Opposite A.N. College Boring Road, P.S.- Sri Krishna Puri, District/Town- Patna.

... .. Petitioner/s

Versus

1. State of Bihar
2. Rakesh Prasad Singh, S/o Late Shashi Bhushan Prasad Singh, M.D. Aparna Housing and Construction Pvt. Ltd. Office at Vau's Automobile, Dack Bungalow Chowraha, P.S.- Kotwali, District/Town- Patna.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Birendra Sharma
For the Opposite Party/s : Mr.Sri Anish Chandra

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 29-01-2021 Heard Mr. Rajendra Narayan, learned senior Advocate for the petitioner and Mr. Rama Kant Sharma, learned senior Advocate for the informant / Opposite Party No. 2. The State is represented by the learned APP.

The petitioner has challenged the order dated 17.10.2016 passed by the learned Chief Judicial Magistrate, Patna in connection with Kotwali P. S. Case No. 380 of 2016, by which the learned court below has



taken cognizance under Sections 406, 420, 467, 468, 120 B and 34 of the Indian Penal Code.

The sum and substance of the accusation in the F.I.R. is that on the assurance of one Vishal Kumar Mishra, the informant invested money for purchase of a property but ultimately the property was never transferred to him. During the negotiations and when the informant was being impressed upon for purchasing the said property, the petitioner is also said to have come to his office on one occasion along with Vishal Kumar Mishra and another accused / Ajay Kumar Singh so as to instill confidence in the informant that the property belongs to AVR Greens (a brokering company) of which Vishal Kumar Mishra, Ajay Kumar Singh and the petitioner are the Directors.

On the aforesaid accusation, the police submitted charge-sheet, whereupon cognizance has been taken, which is under challenge in the present petition.

Mr. Narayan, learned senior Advocate for the



petitioner has submitted that in the entire gamut of allegation, there is no reference of the petitioner having allured the informant in purchasing the property or of having accepted any part of the amount invested by the informant towards purchase of that property.

It has also been submitted that never in the past, the petitioner was ever acquainted to the informant and only on the basis of a stray statement in the accusation that on one occasion, co-accused Vishal Kumar Mishra had brought the petitioner also before him who had disclosed that he had no objection to the sale of the property in favour of the informant, he has been made accused in this case.

He further submits that at the time when the agreement to convey the property to the informant was executed, there does not appear to be any material whatsoever for inferring that the action was motivated by unholy intention of cheating the informant. In that case, even if the petitioner was associated with the other



two accused persons in any manner whatsoever, any breach of contract later would not fall in the category of the offence of cheating.

It has also been urged on behalf of the petitioner that a money suit is pending adjudication before a Court of law and in that event the present prosecution would be absolutely unnecessary.

He further submits that all these aspects have been completely ignored while taking cognizance against the petitioner.

As opposed to the aforesaid contention, Mr. Sharma, learned senior Advocate for the informant / Opposite Party No. 2 has stated that the petitioner cannot claim to be an outsider as while seeking bail from this Court, he had projected himself as a non-working Director of the company of which Mr. Vishal Kumar Mishra was the main person.

Considering the submissions raised on behalf of the parties, I am not inclined to interfere with the order



of cognizance.

However, the petitioner would be at liberty to approach the court below, if so advised, to prefer an application for discharge. Should such an application be filed by the petitioner before the court below, it shall be considered on its own merits, taking into account all the contentions raised on behalf of the petitioner and a reasoned order shall be passed.

The petition stands dismissed with aforesaid observation / direction.

(Ashutosh Kumar, J)

skm/-

U		T	
---	--	---	--

