

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8908 of 2021

Arising Out of PS. Case No.-264 Year-2018 Thana- RIGA District- Sitamarhi

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1. Punita Devi, aged about 30 years, Gender- Female, wife of Sonelal Sah.
 2. Sonelal Sah, aged about 40 years, Gender-Male, son of Fekau Sah.
Both resident of village- Riga, PS- Riga, District- Sitamarhi
- Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Birendra Kumar, Advocate
For the State	:	Mr. Md. Aslam Ansari, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 07-06-2021

The matter has been heard *via* video conferencing.

2. The matter has been heard out of turn on the basis of motion slip filed by learned counsel for the petitioners on 03.06.2021, which was allowed.

3. Heard Mr. Birendra Kumar, learned counsel for the petitioners and Mr. Md. Aslam Ansari, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioners apprehend arrest in connection with Riga PS Case No. 264 of 2018 dated 01.09.2018, instituted under Sections 341, 323, 406, 420, 504, 506/34 of the Indian Penal Code.

5. The allegation against the petitioners, who are wife



and husband, is that the land of the informant was got registered in favour of the petitioner no. 1 on assurance of payment of rupees two lakhs forty thousand, but the informant was paid only rupees one lakh twenty five thousand as advance and even after the registration having been completed, the petitioners are alleged to have got the land mutated and did not pay the remaining amount and when the informant went to get the money, they had assaulted and abused him and forced him to run away from there.

6. Learned counsel for the petitioners submitted that the dispute is purely civil in nature and the present case itself is abuse of the process of the Court. It was submitted that as per the allegation itself, it is a monetary dispute and when there is a registered document and if any amount has not been paid, the remedy is to file a suit before the Civil Court of competent jurisdiction. It was submitted that even the cosmetic addition of assault and abuse is not supported even in the FIR, inasmuch as, it has not been stated as to whether it has resulted in any injury, much less, any injury report being annexed. Learned counsel submitted that the petitioners have no criminal antecedent.

7. Learned APP submitted that the petitioners have cheated the informant by not paying him the full amount.



However, he could not controvert the fact that for recovery of any money, the recourse is to approach the Civil Court of competent jurisdiction.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the concerned learned Judicial Magistrate, 1st Class, Sitamarhi, in Riga PS Case No. 264 of 2018, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the petitioners, and (ii) that the petitioners shall cooperate with the Court/police/prosecution. Failure to cooperate shall lead to cancellation of their bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioners.

10. The application stands disposed off in the



aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

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