

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20177 of 2022

Arising Out of PS. Case No.-3910 Year-2019 Thana- PATNA COMPLAINT CASE District-
Patna

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DINESH SHIVAJI RAO GHADGE S/o Shivajirao Anna Ghadage Resident of
M/s Luxury Bulders and Developers, Office no.38, the Great Eastern Galleria,
Plot no.20, Sector-4, Opposite to Samadhan Hotel, Nerul Navi Mumbai-
400706.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Sanjeev Kumar Singh S/o Rajendra Prasad Singh Resident of Kamla Kunj,
near Cem Factory, Road no.25A, Rajeev Nagar, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Anjani Kumar Jha, Advocate
For the Opposite Party/s	:	Mr. Sanjay Kumar Tiwary, A.P.P.
	:	Mr. Sanjay Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 08-12-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

The petitioner apprehends his arrest in a case
registered for the offences punishable under Section 420 of the
Indian Penal Code.

The petitioner appears to be a cheat for the reason that
when the matter was taken up earlier on 01.11.2022, no coercive
action was granted in favour of the petitioner as the complainant
had sought time for filing reply to the anticipatory bail
application and the matter was fixed for 15.11.2022. Thereafter,
when the matter was taken up on 15.11.2022, it was submitted



on behalf of the petitioner by the learned counsel for the petitioner that some amicable settlement would be reached, accordingly the Court had directed the petitioner and the complainant to remain physically present in the Court along with their respective counsel on 30.11.2022, on the said date, the complainant, who works in Ahmedabad in a private concern, was present in person, but the petitioner did not appear nor any application on his behalf seeking extension was filed, further the learned counsel for the petitioner submits that though petitioner was directed to remain physically present before the Court on that day, but the exemption application could not be filed as the petitioner informed only a day before that he is not well, as such, would not be in a position to make his appearance before the Court. The submission of the learned counsel for the petitioner was accepted and the case was fixed for 08.12.2022 and both petitioner and complainant were directed to remain physically present in the Court, further the Court in the order dated 30.11.2022, had also recorded that in the event, if the petitioner does not appear on the said date also then the Court may be constrained to initiate coercive steps against him. Further, orally it was also submitted on behalf of the petitioner that some amicable settlement would be reached but when the



matter is taken up again on 08.12.2022, the complainant is present but the petitioner has not appeared nor any application seeking exemption from personal appearance has been filed which gives an impression to the Court that petitioner is just trying to buy time and is not willing to settle the issue rather he is trying to hoodwink the Court. Since, it was submitted that an amicable settlement may be reached, as such, the petitioner and the complainant were asked to remain physically present so that in presence of the Court an amicable settlement is reached and if not then at least the matter can be referred for mediation. But, today when the matter is taken up, the learned counsel for the petitioner expressed his helplessness and submitted that he had informed the petitioner about the earlier order dated 30.11.2022, but still the petitioner has not appeared nor gave any instruction for seeking exemption. The submission made by the learned counsel for the petitioner shows the obstinate attitude of the petitioner and gives an impression that petitioner does not care for orders of the High Court or else he would have at least instructed the learned counsel to seek extension of time or to seek exemption.

The complainant who is present in person in the Court submits that he does a private job and had invested his life



savings in purchasing the flat which was being constructed by the petitioner's company at Mumbai in 2010, it is next submitted that the complainant had entered into an agreement with the petitioner's company for purchasing the flat at the cost of Rs. 33,69,917/- and the flat was to be handed over in 2012 itself, it is next submitted that the complainant in terms of the agreement out of Rs. 33,69,917/- had already paid Rs. 32,00,000/- and the rest amount was to be paid at the time of execution of the sale deed, it is further submitted that the petitioner's company did not complete the construction of the apartment within the time stipulated in the agreement and the law changed thereafter, on account of which some dispute arose and the complainant was asked to pay some more amount of money than what was agreed earlier in pursuance of the agreement which was entered in December 2010. The complainant further submits that had the flat been handed over to him on time, as agreed in pursuance of the agreement entered in December 2010, then the complainant would have paid only Rs. 33,69,917/-, but now the petitioner is demanding an amount of Rs. 37,00,000/- more for handing over the flat. The complainant next submits that the original price of the flat was Rs. 33,69,917/- out of which he had already paid Rs.



32,00,000/- and now the petitioner is asking him to pay a further amount of Rs. 37,00,000/- which also includes penal interest, it is also submitted that it was for this reason that the petitioner was directed to remain physically present so that an amicable settlement would be reached. The complainant further submits that petitioner is trying to take an advantage on the pretext that the law has changed but RERA had already adjudicated the dispute and the complainant was ready to abide by the direction of the RERA, Mumbai.

After hearing the learned counsel for the petitioner and the complainant in person, the Court *prima facie* is of the view that petitioner is trying to mislead the Court by initially giving instruction to his learned counsel to submit that some amicable settlement may be reached but then his conduct is deplorable, as he has shown scant regards to the orders of the Court, as aforesaid, and it is because of conduct of persons like petitioner that faith of common people gets eroded in builders.

At this stage, the learned counsel for the complainant submits that the complainant who works in Ahmedabad on direction of the Court has appeared on both the occasions and is even present today but the petitioner takes the Hon'ble Court very lightly which undermines the magnanimity of the law.



After hearing the learned counsel for the complainant, the complainant in person and learned A.P.P. for the State, the Court is not inclined to extend the privilege of anticipatory bail application to the petitioner. His prayer for anticipatory bail is thus rejected.

(Satyavrat Verma, J)

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