

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10946 of 2021**

Arising Out of PS. Case No.-32 Year-2016 Thana- DARBHANGA COMPLAINT CASE
District- Darbhanga

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1. BHOGNDRA SONAR Son of Ram Swarup Sonar
 2. Deo Narayan Sonar @ Devnarayan Swarnkar Son of Ram Swarup Sonar
 3. Pawan Sonar Son of Ram Swarup Sonar
- All are Resident of Village - Ghanshyampur, P.S. - Ghanshyampur,
District - Darbhanga.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Amod Jha D/o- Late Rupkant Jha R/V- Ghanshyampur, P.S.- Ghanshyampur,
District- Darbhanga.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar, Advocate
For the Opposite Party/s	:	Mr. Shailendra Kumar, A.P.P.
For the Informant	:	None.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 14-07-2022 Heard the parties.

No one appears on behalf of the informant.

The present application has been filed for quashing of the order dated 18.10.2018 passed by the learned Additional Chief Judicial Magistrate, Biraul, Darbhanga whereby the learned court below has been pleased to take cognizance against the petitioners under Section 420 of the Indian Penal Code in connection with Protest-cum-Complaint Case No. 32 of 2016.

Learned counsel for the petitioners submits that initially the informant had filed an FIR bearing Ghanshyampur P.S. Case No. 117 of 2015 under Sections 406, 420, 120B, 341



and 504 of the Indian Penal Code against the present petitioners. Learned counsel submits that the police after threadbare investigation came to a considered conclusion that no offence under any of the provisions of the Indian Penal Code is made out and thus submitted final form bearing no. 77 of 2018, dated 31.08.2018. Learned counsel submits that once the final form in favour of the petitioners came to be submitted, the informant filed a protest petition and based on the protest present cognizance order came to be issued.

Learned counsel submits that from bare perusal of the allegation as alleged in the FIR from which the present complaint arises it would manifest that the nature of allegation is completely civil in nature and the complainant in order to coerce the petitioners has resorted to criminal proceeding for settling the civil dispute. It is next submitted that from bare perusal of the complaint, it would manifest that the land which is worth Rs.12,00,000/- (twelve lacs) has been purchased by the petitioners for an amount of Rs.1,00,000/- (one lac) only from the aged father of the complainant and they are refusing to pay balance amount of Rs.11,00,000/- which is the value of the land. Learned counsel next submits that the property in dispute was purchased by the petitioners from the father of the complainant



by a registered sale deed dated 07.11.2014. It is next submitted that if the complainant is aggrieved that his father sold the land for a value which is much less and also that the petitioners are not paying the balance amount then in that event he has remedy for getting the sale deed cancelled.

Learned counsel next submits that no land can be purchased less than the circle rate because the registration amount is fixed on the circle rate. It is next submitted that the complainant is well aware of the fact that the property in dispute is worth less than Rs.1,00,000/- (one lac) but still the petitioners purchased the land for Rs.1,00,000/- (one lac) and now the complainant only with a view to coerce them into submissions for extracting some extra amount has filed the present protest petition when police after threadbare investigation has submitted final form.

Learned counsel next submits that the law is well settled that criminal proceeding should not be resorted to in order to settle the civil dispute. It is next submitted at the cost of repetition that if the complainant is aggrieved by the sale deed he has remedy available in law. Learned counsel next submits that even from bare perusal of the allegation as alleged in the FIR/complaint, it would manifest that the allegation does not



even remotely suggest that the ingredients of the offence under Section 420 of the Indian Penal Code is made out.

Learned A.P.P. for the State opposes the application but is not able to meet the submission of the learned counsel for the petitioners that the controversy involved in the present case is purely civil in nature and, as such, no offence under Section 420 of the Indian Penal Code is made out.

Considering the submissions made by the learned counsel for the petitioners, the order dated 18.10.2018 passed by the learned Additional Chief Judicial Magistrate, Biraul, Darbhanga in connection with Protest-cum-Complaint Case No. 32 of 2016 is hereby quashed and this application is allowed.

(Satyavrat Verma, J)

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