

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62338 of 2021

Arising Out of PS. Case No.-248 Year-2021 Thana- JAGDISHPUR District- Bhagalpur

1. AMBRISH SHUKLA @ TUTTU SHUKLA @ KUMAR AMBRISH SHUKLA Son of Late Shiv Shankar Shukla Resident of Village - Turdiha, P.S. - Jagdishpur, District - Bhagalpur.
 2. Vinita Devi Wife of Ambrish Shukla @ Tutu Shukla @ Kumar Ambrish Shukla Resident of Village - Turdiha, P.S. - Jagdishpur, District - Bhagalpur.
- Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar, Advocate
For the Opposite Party/s	:	Mr. Dilip Kumar No. 1, APP
For the Informant	:	Mr. Praveen Kumar

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 14-07-2022 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 406 and 506 of the Indian Penal Code.

Learned counsel for the petitioners submits that the petitioners are persons with clean antecedent and the informant alleges that on 18.06.2019 the informant agreed to purchase a piece of land as detailed in the FIR from the petitioner no. 1 at the rate of Rs. 40 lacs per Bigha, it is next alleged that the total consideration amount of the land came to Rs. 1,34,40,000/- and on the date of agreement a sum of Rs. 11 lakh was paid as earnest money and an agreement for sale was executed, subsequently a



sum of Rs. 10 lakh was also paid to the petitioner, it is further alleged that on the said agreement for sale there was signature of petitioner no. 2 as a witness, it is next alleged that when the informant approached the petitioner to get the sale deed executed with regard to the aforesaid land, they started avoiding the same and on 04.07.2021 they refused to execute the sale deed in favour of the informant and also abused and threatened them.

Learned counsel for the petitioners submits that from bare perusal of the allegations as alleged in FIR it would manifest that the allegations are purely civil in nature, it is next submitted that the law is well-settled that criminal proceedings should not be resorted to for settling civil dispute. Learned counsel submits that when the agreement for sale was executed between the informant and the petitioner no. 1 and the breach of the same attracted, remedies under the Specific Relief Act as such a civil forum was available but the informant instead of availing his remedy as available in law has chosen to file a criminal case in order to coerce the petitioner into submission so that the amount which he is claiming to have paid the petitioner be returned to him.

Learned counsel for the petitioner submits that he accepts that in terms of the agreement for sale he had received an amount of Rs. 11 lakh but as far as allegation of the informant



that he subsequently paid another Rs. 10 lakh that is disputed, it is next submitted that even the FIR does not disclose that as to when the said amount was paid and by what mode, it is next submitted that the informant in order to coerce the petitioner into submission has falsely alleged that he paid Rs. 10 lakh subsequently by way of cash.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners but is not able to meet the submission of the learned counsel for the petitioner that in the nature of allegation the informant had remedies available in law and criminal cases are not resorted to for settling civil disputes.

Learned counsel for the informant, at this stage, submits that he has instructions to make submission that in the event, if the petitioner is willing to return Rs. 11 lacs then he will not press his claim for another Rs.10 lacs and will withdraw the case and if the petitioner is willing, both of them will jointly file a compromise petition.

Learned counsel for the petitioner also based on instruction from petitioner submits that the petitioner is willing to return the amount of Rs. 11 lacs based on the submission made by the learned counsel for the informant. Learned counsel for the petitioner based on the instructions of the petitioner undertakes that petitioner will return the amount of Rs. 11 lacs to the



informant within a period of eight weeks from today.

Considering the submissions made by the learned counsel for the parties, the petitioners above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on **provisional anticipatory bail** on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Jagdishpur P.S. Case No. 248 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

The moment, the petitioner or the informant files an application before the learned court below showing that the entire amount of Rs. 11 lacs has been paid/received, the learned court below shall verify the same and shall confirm the bail bonds of the petitioner, but if the amount as agreed is not paid within a period of 8 weeks from today, the provisional bail granted to the petitioner shall be cancelled forthwith.

(Satyavrat Verma, J)

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