

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11111 of 2016

Arising Out of PS. Case No.-3497 Year-2013 Thana- SARAN COMPLAINT CASE District-
Saran

Prushottam Mishra Son of Late Ramdas Mishra, Resident of Mohalla-
Dahiyawan, Tola Near Saran Academy School, P.S- Chhapra Town, District-
Saran.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. Poonam Singh, W/O Jitendra Kumar Singh
3. Jitendra Kumar Singh, S/O Devendra Singh Both residents of Village-
Sikati, P.S.- Parrsa, District- Saran at present Flat No. 204, 2nd Floor,
Quality Paradise, Aara garden Jagdeo Path, Patna- 14, District Patna.
4. Kamala Prasad Singh, S/O Late Ramashray Prasad, Resident of Village-
Dindayal Nagar, Tola Ramnagar, P.S.- Chapra Muffasil, District- Saran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bal Bhushan Choudhary
For the Opposite Party/s : Mr. Madhuri Lataapp

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 04-09-2023 1. Heard learned counsel for the petitioner and learned
APP for the State.

2. Learned counsel for the petitioner seeks quashing of the
order dated 17.12.2015 passed by the learned Additional Sessions
Judge-VIII, Chapra in Cr. Revision No. 39 of 15/44 of 2015 by
which revision application stands dismissed, affirming the order
dated 24.02.2014 passed by Sri. D.K. Tiwary, learned Judicial
Magistrate, 1st Class, Chapra, in complaint case No. 3497C of 2013
and Misc. Case No. 137 of 2015 by which the learned Magistrate
dismissed the complaint petition under Section 203 of the Cr.P.C.

3. Learned counsel thus submits that from the perusal of
the order impugned it would manifest that the order of the learned



Magistrate whereby complaint was dismissed under Section 203 Cr.P.C stands affirmed by the Revisional Court. It is next submitted that petitioner is aware of his limitation that once the learned Magistrate came to a considered conclusion that no case was made out based on inquiry and statement of the witnesses, leading to dismissal of the complaint and the same being affirmed by the Revisional Court, the scope of an application under Section 482 would lie only if from the order of the Revisional Court, it can be shown that the order is bordering on perversity.

4. Learned counsel next submits that the Revisional Court order borders on perversity, as such the present quashing application under Section 482 Cr.P.C. is maintainable. It is next submitted that from perusal of the allegations as alleged by the complainant, it would manifest that in sum and substance the allegation was that an amount of Rs. 6,14,000/- in the name of selling of land was siphoned off, which the complainant had paid, it is next submitted that the complainant was induced by the accused person to part with the money in the name of registering a piece of land as detailed in the complaint.

5. Learned A.P.P. for the State Rabindra Kumar vehemently opposes the case of the petitioner and submits that this case be dismissed with exemplary cost for wasting the time of the Court.

6. Learned A.P.P. for the State next submits that if what



has been alleged is true without admitting, then the complainant ought to have instituted an FIR so that the Police could have investigated the case and could have come to a considered conclusion whether the allegation as being alleged by the complainant in the complaint is correct or not, but then the complainant very wisely instituted the complaint and got himself examined in the inquiry along with his witnesses and thereafter, the learned Magistrate considering all aspects of the matter came to a considered conclusion that the complaint was devoid of any merits and thus dismissed it. It is further submitted that even the Revisional Court in its revisional jurisdiction after considering the material on record, came to a considered conclusion that the order of the Magistrate does not warrant any interference. It is thus submitted that the order is not bordering on perversity but then the issue was completely civil for which a criminal case was unwarranted and thus, the Magistrate rightly dismissed the case of the complainant.

7. At this stage the learned counsel for the petitioner submits that the petitioner is also pursuing his remedy before a competent civil forum for recovery of his money.

8. Learned A.P.P. for the State thus submits that when the petitioner is already pursuing his remedy before a Court of competent civil jurisdiction, where was the occasion for the petitioner to approach the Criminal Court. It is also submitted that in the event if the petitioner does not succeed before the Court of competent civil



jurisdiction and the present complaint petition is revived, will it not be a travesty of justice.

9. At this stage the learned counsel for the petitioner submits that there are various judgment of the Hon'ble Supreme Court on this issue, but when the Court queried, he was seeking time that he has not come prepared with the judgment which shows that the petitioner is not interested in pursuing the case rather is interested in only wasting the Court's time when the matter is of 2016 and the matter is being taken up in 2023.

10. After considering the submissions of the learned A.P.P. for the State, the Court does not find any infirmity in the order passed by the learned Magistrate and the Revisional Court and thus, the quashing application is dismissed.

(Satyavrat Verma, J)

HarshPandey/-

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