

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17813 of 2021**

Arising Out of PS. Case No.-256 Year-2019 Thana- SHEKHPURA COMPLAINT CASE
District- Sheikhpura

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Pushpesh Kashyap @ Pushpesh Kumar Kashyap Son Of Rlaj Nandan Sharma
(Wrongly Stated Late Digesh Kashyap), Resident Of Barpa Niwas, Ward No.
27, Bilashi Town, P.S. Deoghar, District- Deoghar (Jharkhand)

... .. Petitioner/S

Versus

1. The State Of Bihar
2. Balmiki Prasad Sinha Son Of Late Bishni Singh Resident Of Village- Nimi,
P.S. Shekhopur Sarai, District- Shekhpura

... .. Opposite Party/S

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Appearance :

For the Petitioner/s : Mr. Parmanand Pd. Nr. Sahi , Advocate
For the Opposite Party/s : Mr. A.G
For the Opposite Party No . 2 : Mr. Anand Mohan Prasad Mehta, Advocate
Mr. Pankaj Kumar , Advocate

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

10 16-08-2023 1. This application for quashing order dated

11.12.2019 passed by learned C.J.M Sheikpura in Complaint

Case No. 256C/2019 by which cognizance has been taken under

section 420, 467, 468 of I.P.C.

2. The case of complaint, in short, is that accused
No.5 (Ramshrest Singh) introduced the complainant to this
petitioner who is alleged to be property dealer. It is further
alleged that this petitioner, allegedly received Rs. 1,02,500/-
from the Complainant and got a forged sale deed executed by
Dhirendra Kumar in favour of the complainant. It is further
alleged that when the complainant demanded the money, all of
them abused and threatened the complainant. However, when



complainant went at the spot for taking possession, he came to know that a forged sale deed was executed by one Dhirendra Kumar. Thus, accused persons cheated the complainant and on demand, they abused and threatened the complainant.

3. On the basis of evidence the Court below vide order dated 11.12.2019 took cognizance of the offence under sections 420, 467, 468 of I.P.C.

4. Learned counsel for the petitioner submits that from bare perusal of the complainant it is apparent that the petitioner is not beneficiary nor he is alleged to have executed the sale deed in favour of the complainant. He is neither the witness nor identifier to the sale deed. He is only alleged to be broker. The complaint had not disclosed as to when and in whose presence the alleged amount of Rs. 1,02,500/- was paid and there is no chit of paper in support of the allegation. The land in question was executed in the year 2008 and complaint petition has been lodged in the year 2019, i.e after the lapse of more than 11 years and there is no plausible explanation as to why the complainant lodged this complaint petition after such an inordinate delay. It has been submitted that the allegation made in the complaint case is pure and simple a dispute of civil nature and the present case has been filed only with a view to



pressurize the petitioner to settle the claim based on civil dispute. In support of the submissions made on behalf of the learned counsel for the petitioner relied upon the decision of Coordinate Bench of this Court in the matter of ***Niranjan Kumar Modi Vs State of Bihar & Ors.*** reported in ***2010(1) PLJR 449*** and ***Anil Kumar Singh Vs. State of Bihar and another reported in 2013(1) PLJR 401.***

5. However, learned counsel for the Opposite Party No. 2 has disputed the argument of the petitioner and submitted that this petitioner knowingly cheated the complainant by fraudulent act and has transferred the disputed land in favour of the complainant.

6. Taking into consideration, the rival submission of the parties and materials available on record, I am of the opinion that the criminal proceeding initiated by the opposite party No. 2 against the petitioner is wholly unwarranted. There is no material to show that any money was transferred or handed over or delivered to the petitioner. Secondly, there is no evidence on record to show that the representation made by this petitioner was false or he had prior knowledge of such representation being false and made only with the intention to deceive the complainant. No proof of any financial transaction is on record



and much less concerning the present petitioner. The dispute is of civil in nature.

7. The Apex Court in a catena of decisions has deprecated filing of criminal cases to settle civil dispute.

8. Reference in this connection may be made to the cases of ***G. Sagar Suri vs. The State of U.P*** reported in ***(2000)2 SCC 636*** and in ***Indian Oil Corporation vs. N.E.P.C. (AIR 2006 SC 2780)***.

9. In my opinion this criminal prosecution is an abuse of the process of the Court and is required to be quashed.

10. The complainant may seek his remedy for recovery of the money before the appropriate forum.

11. In the result, the application is allowed and the impugned order taking cognizance is hereby quashed.

(Prabhat Kumar Singh, J)

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