

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16369 of 2023

Arising Out of PS. Case No.-193 Year-2019 Thana- PARSABAZAR District- Patna

1. Maheshwar Prasad S/O Dwarika Prasad Resident Of Village- Rahimpur Gumti, P.S- Parsa Bazar, Distt.- Patna.
2. Raj Kumar Singh S/O Dharamdeo Singh Resident Of Village- Khaprail Chak, P.S- Parsa Bazar, Distt.- Patna.
3. Reeta Devi W/O Maheshwar Prasad Resident Of Village- Rahimpur Gumti, P.S- Parsa Bazar, Distt.- Patna.
4. Soni Devi W/O Raj Kumar Singh Resident Of Village- Khaprail Chak, P.S- Parsa Bazar, Distt.- Patna.
5. Dwarika Prasad S/O Dhannu Prasad Resident Of Village- Rahimpur Gumti, P.S- Parsa Bazar, Distt.- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Bundi Sao S/O Haro Sao Resident Of Village- Khaprail Chak, P.S- Parsa Bazar, Distt.- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amrendra Kumar Singh, Advocate
For the Opposite Party/s : Mr.Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 25-07-2023 Heard learned counsel for the petitioners and learned
APP for the State.

2. This application has been filed for quashing of order dated 03.02.2023 passed by learned A.C.J.M-VIII, Patna in connection with Parsa Bazar P.S. Case No. 193 of 2019/G.R. No. 5269 of 2019 by which learned Magistrate rejected the petition filed by the petitioners under Section 239 of the Cr.P.C to discharge them under Sections 406 and 420 of the Indian Penal Code read with Section 139 of the Negotiable Instrument



Act.

3. As per F.I.R, the informant executed a deed of agreement to sell of land in question on a consideration amount of Rs. 35,00,000/-. As per the agreement two purchasers had made payment of Rs. 35,00,000/- through R.T.G.S/Cheques but it was returned unpaid due to insufficient balance in their account. Due to non-payment of the said amount to the informant, he sent a legal notice dated 02.06.2019 through registered post under the provisions of N.I. Act to the accused persons which was replied on 10.06.2019. The co-accused persons, namely, Reeta Devi and Soni Devi also sent a legal notice dated 03.06.2019 to the informant to the effect of non-payment of money. It is further alleged that the purchasers of land contrary to the averment made in deed of agreement got the sale deed registered in favour of co-accused, namely, Reeta Devi and Soni Devi on half consideration amount by committing fraud.

4. It has been submitted by learned counsel for the petitioners that Opposite Party No. 2 had not got the land measured, therefore, petitioners have not given the balance payment of Rs. 2,00,000/- to the Opposite Party No. 2. He further submits that the present case is false and fabricated and



no offence as alleged under Sections 406 and 420 of the Indian Penal Code read with Section 139 of the Negotiable Instrument Act has been made out against them.

5. Learned counsel for the informant has submitted that after registration of the F.I.R, the case was investigated by the police and the police submitted a charge-sheet after finding the allegations against the petitioners true. The materials have come during investigation which has been considered by the Trial Court at the stage of discharge and after finding a strong *prima facie* case has been made against the petitioners, the application for discharge has been dismissed.

6. I have considered the submissions of both the parties and also perused the materials available on record, a strong *prima facie* case has been found against the accused persons of the case. In view of the law laid down by Hon'ble Supreme Court in case of ***State of Bihar Vs. Ramesh Singh*** reported in ***1977 SCC (4) 39***, this application is dismissed.

7. The Trial Court is directed to conclude the trial of the petitioners without granting unnecessary adjournments within a year and will pass an order for interim compensation under Section 138 Cr.P.C to the Opposite Party No. 2 in



accordance with law, if such an application is filed by the informant in the Trial Court.

8. With the aforesaid observation and direction, this application is dismissed.

(Sandeep Kumar, J)

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