

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34624 of 2015

Arising Out of PS. Case No.-495 Year-2011 Thana- MOTIHARI TOWN District- East
Champaran

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1. Amit Kumar @ Amit Anand
 2. Bittu Kumar @ Avinash Kumar Both are S/o Late Nag Narain Pd. Srivastava
Resident of Village Raghunathpur, P.S. Turkauliya, District East Champaran.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Kumari Rani Devi W/o Umesh Singh Resident of Village Mangalpur Patni,
P.S. Ramgarhwa, District East Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar, Advocate

For the Opposite Party/s : Mr.Surendra Pd.Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 23-02-2023 Heard learned counsel for the petitioners and the

State.

This petition has been preferred for quashing of the
order dated 29.11.2013 in Trial No. 890 of 2014 arising out of
Motihari Town P.S. Case No. 495 of 2011 (G.R. No. 6239/11)
passed by the learned Chief Judicial Magistrate, East
Champaran at Motihari whereby and whereunder cognizance
under Sections 406, 420, 467, 468, 471, 384 and 120 (B) of the
Indian Penal Code has been taken against the petitioners.

As per the prosecution story, the informant alleged
that her husband is an Army personnel whoused to come at the



house only once or twice in a year on leave. The petitioner no. 1, Amit Kumar @ Amit Anand offered him to provide 15 'dhurs' of land from Ramadhar Raut worth Rs. 2,66,000/-. After the money was given to the petitioner no. 1. the registry was made in the Registry Office, Motihari. After registration of the land, petitioner no. 1 took responsibility for mutation and boundary of the land.

It is further alleged that the informant's brother had also taken 2 'katha' of land in Raghunathpur village at the instance of petitioner no. 1, but the said land is 'gairmazarua'. It has been further alleged that the petitioner no. 1 wanted to sell 10 'dhurs' of land from this residential house for which informant and her husband had given six lakhs cash. Some of money were given in cash while other through cheque and money was transferred in the account of petitioner no. 2, Bittu Kumar @ Avinash Kumar.

Both of the petitioners had taken Rs. 59,000/- as friendly loan and made a paper on Rs. 5/- non judicial stamp on 06.11.2007 with assurance to return it on 30.03.2008 and the judicial stamp issued in the name of the petitioner no. 2.

When the husband of the informant came on leave and on enquiry, both petitioners were found absent from their



house and also not executed 10 '*dhurs*' land from his residential house after taking six lakhs. It is further alleged that the petitioner no. 2 used to threaten that if she made complaint before the police, they will kill them. It is further alleged that the informant went at the police station but the police chose not to take her case and accordingly, the complaint.

Learned counsel for the petitioners submit that a perusal of the complaint would show that he had shown the land to the lady and her husband and accordingly, the payment was given to the land holder, he was merely a witness to it. However, the matter is of 2009 whereas the complaint was filed two years later in 2011. The police has submitted the final form against the land holder while implicating him in this case as such, he deserves relief.

Learned APP on the other hand, submits that a bare perusal of the complaint would show that it was the petitioner who negotiated with the lady/husband, promised her that there is land which can be transferred in their name and considering that it was nearer to the railway station, the husband agreed.

Accordingly, the amount in question was paid and on the promise of the accused-petitioner that he undertakes the smooth transfer of land as also the construction of boundary



wall and possession of the land that the money was transferred. However, no such promise was fulfilled.

The further allegation in the complaint is that subsequently the complainant's brother also invested Rs. 6 lakhs and the petitioner even cheated him inasmuch as '*Gairmazarua*' land was shown and a paper was executed and no possession was given to her brother. The further allegation of the complainant is that when she tried to contact accused/petitioners, he switched off his mobile and disappeared.

Considering the kind of allegation that has come in the complaint which reflects from the petition itself, the petitioners seem to be the master mind of entire case inasmuch as he twice defaulted in transfer of the land firstly to the complainant/husband and later to her brother after getting the money transferred, they do not deserve any relief.

No case is made out, which is accordingly dismissed.

(Rajiv Roy, J)

Jagdish/Neha/-

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