

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37556 of 2022

Arising Out of PS. Case No.-194 Year-2021 Thana- ROHTAS COMPLAINT CASE District-
Rohtas

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1. RAMADHAR SINGH Son of Late Radha Krishna Singh Resident of Mohalla- Gopalganj, Gaurakshni, P.S.- Sasaram Nagar, District- Rohtas at Sasaram
 2. Kamla Devi Wife of Ramadhar Singh Resident of Mohalla- Gopalganj, Gaurakshni, P.S.- Sasaram Nagar, District- Rohtas at Sasaram

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kalawati Devi Wife of Laxman Singh Resident of Village- Dharupur, P.S.- Nokha, District- Rohtas at Sasaram, At present resident of Mohalla- Gopalganj, Gaurakshni, P.S.- Sasaram Nagar, District- Rohtas At sasaram

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Babu Nandan Prasad
For the Opposite Party/s : Mr.Md. Matloob Rab

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 03-08-2023 Heard learned counsel for the parties.

2. This application is filed for quashing the order dated 17.02.2022 by which learned A.C.J.M., Civil Court, Rohtas at Sasaram has taken cognizance against the petitioners in Complaint Case No. 194(C)/2021 registered under Sections 323, 504, 506 of the Indian Penal Code.

3. As per prosecution case, complainant visited the house of petitioner no. 1 for purchasing the land in 2006 appertaining the Khata no. 239, Plot No. 1057 and Rakba- 6 decimal, which is in the name of his son Pankaj Sagar @ Pankaj



Kumar and the same land has been purchased by Hussaini Mahto at Mohalla- Kabirganj, Sasaram in the name of his son. She further alleges that she has paid the amount of Rs. 1,83,000/- for Rakba 4 decimals and 2 decimals of land have been registered through sale-deed on his staff namely Yugal Kishore Singh.

4. It is further alleged that petitioner no. 1 has executed sale deed dated 08.08.2006 in her name along with his staff Yugal Kishore Singh respectively and his wife was present there. Petitioner no. 1 also taken the responsibility for mutation of the said land in their names because he is father-in-law of her devar. The said mutation paper was kept in his possession till 20th December, 2020. When she demanded the same thereafter disclosed that she has been cheated in this case. Then she filed complaint petition bearing Complaint Case No. 194/2021.

5. From the allegation levelled in the case, the Magistrate takes the cognizance of the offence. It is at the stage of trial when the trial court finally decides as to under for what offence the petitioner can be charged. Merely because the trial court has not taken cognizance under Section 420 of the Indian Penal Code, the petitioner cannot take a defence that no offence is made out. The trial court is directed to apply its own mind at



the stage of framing of charge on the basis of materials on record as to whether offence under Section 420 is made out against the petitioner.

6. Accordingly, this application is dismissed.

(Sandeep Kumar, J)

Ranjeet/-

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