

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48023 of 2021

Arising Out of PS. Case No.-284 Year-2019 Thana- MADHEPURA COMPALINT CASE
District- Madhepura

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1. SHAIENDRA PRASAD SUMAN @ SHAIENDRA PD. SUMAN @ SHAIENDRA KUMAR SUMAN Son of Prem Prasad Yadav present address 40 ARTY DIVISION, PROVOST UNIT, Police Station B.C. Bazar, C/O- 56 APO, Ambala Cantt. Haryana, PIN -908440. Permanent residents of Village - Rupauli, Police Station - Gamharia, District - Madhepura, Bihar.
 2. Mannu Devi @ Munni Devi Wife of Shailendra Prasad Suman present address - No. 3,. Central Street, Neelsandra bangalore, Police Station - Ashok Nagar, bangalore, Karnataka, PIN -560047. Permanent residents of Village - Rupauli, Police Station - Gamharia, District - Madhepura, Bihar.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Ajay Kumar Son of Sri Yogendra Prasad Yadav Resident of Mohalla - Azad Nagar, Ward No. 09, Police Station - Madhepura, District - Madhepura, Bihar, PIN-852113.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. P.N. Shahi, Sr. Advocate
Mr. Mritunjay Kumar

For the Opposite Party/s : Mr.Nirmal Kumar Sinha

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 22-08-2023 Heard learned senior counsel for the petitioners;

learned APP for the State and learned counsel for the opposite

party no. 2.

2. This application has been filed for quashing of the



order dated 27.08.2019 by which learned Magistrate has taken cognizance against the petitioners in Complaint Case No. 284/2019 registered under Sections 406, 417, 120B/34 of the Indian Penal Code.

3. As per prosecution case, complainant has given Rs. 1,25,000/- to the accused persons in form of loan for purchasing land. After taking money accused had given the sale deed to the complainant and said that after they return of money they will take back the sale deed. Petitioner no. 1 had registered the land in the name of his wife (petitioner no. 2). When the complainant demanded his money back then accused persons tried to evade from returning the money. A legal notice was sent to the accused persons but they did not return the money. Lastly complaint case was filed against both the accused persons.

4. From the reading of the complaint it appears that it is basically a case filed for recovery of some amount given in form of loan. For recovery of the loan the opposite party no. 2 ought to have approached the civil court in money suit. This kind of malicious prosecution should not be allowed to continue.

5. Considering the aforesaid, this application is allowed.

6. The entire proceeding by which learned Magistrate



has taken cognizance against the petitioners in Complaint Case
No. 284/2019 is hereby quashed.

(Sandeep Kumar, J)

Ranjeet/-

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