

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37251 of 2019

Arising Out of PS. Case No.-375 Year-2013 Thana- GOPALGANJ TOWN District-
Gopalganj

-
1. Raman Prakash Saraogi Son of Satyanarayan Saraogi, Resident of Village - 75, G.B.Rd., Gaya, P.S.- Kotwali, Dist.- Gaya, and Directors of M/s Prakash Roller Flour Mills (P)Ltd., Gaya.
 2. Bijay Prakash Saraogi @ Bijay Prakash Son of Satyanarayan Saraogi Resident of Village - 75, G.B.Rd., Gaya, P.S.- Kotwali, Dist.- Gaya, and Directors of M/s Prakash Roller Flour Mills (P)Ltd., Gaya.
 3. Shyam Prakash Saraogi @ Shyam Prakash Son of Satyanarayan Saraogi, Resident of Village - 75, G.B.Rd., Gaya, P.S.- Kotwali, Dist.- Gaya, and Directors of M/s Prakash Roller Flour Mills (P)Ltd., Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Rakesh Kumar Tiwary Son of Suresh Tiwary Resident of Village - Barieshar, P.S.- Hathua, Dist.- Gopalganj at Present residing at 46, Patliputra Colony, Patna -13, P.S.- patliputra, Dist.- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raj Kishore Prasad
For the Opposite Party/s : Mr. Tarun Prasad Mandal

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 21-04-2023 Heard the parties.

This application has been filed on behalf of the petitioners for quashing the order dated 25.02.2016 passed by the learned Chief Judicial Magistrate, Gopalganj in Gopalganj Town P.S. Case No. 375 of 2013.

“The proseuction story in short is that on 25.08.2013, the Opposite Party No. 02 has filed written application before the SHO, Town Police Station, Gopalganj alleging therein that



on 05.06.2012, the opposite party No. 02 has made negotiation for purchasing Plot No. P 29, 30, 32 and 33 situated at Gaya Road, Bodh Gaya on the basis of resolution of the Board of Directors of the Company (M/s Prakash Roller Flour Mills Private Limited). It is also alleged that the O.P. No. 02 has also raised suspicion that the land of BIADA is not saleable and on that suspicion the accused persons have assured them that in terms of new rule, even the land of BIADA can be sold. On the said assurance, the O.P. No. 02 has handed over a cheque of Rs. 1.5 lac in the name of the company. Thereafter again the informant has given cheque of Rs. 10 lacs on 16.08.2012. It is also alleged that again on 28.09.2012, the accused Raman Prakash Saraogi came to Gopalganj and the O.P. No. 02 has given Rs. 20 lacs cash on the basis of a written agreement prepared at Gopalganj in presence of witness. It was agreed between the parties that the land will be sold at the cost of Rs. 1.15 crores only and out of that the informant has already paid a sum of Rs. 41 lacs and 51 thousand and the rest amount will be paid by the informant in six months. It is further alleged that on 14.04.2013, the accused Raman Prakash Saraogi again received Rs. 33 lacs and 50 thousand cash and in token thereof, he has granted receipt also. When the accused persons have



delayed the registry of the land, then the informant made an enquiry from the details of the company and has come to know that the accused Raman Prakash is no more director of the company and actually all the three brothers have cheated the informant and even the resolution of the Board of Directors is fake and thereby the accused persons have grabbed an amount of Rs. 75 lacs and one thousand from the informant.”

Learned counsel for the petitioner submits that the entire disputed amount has been returned of which Rs. 29 lacs and 01 thousand was paid pursuant to the order passed by this Court during hearing of the prayer of anticipatory bail.

When the petitioners have been asked that how the balance amount has been paid, they say that it has been paid in cash but there is no receipt/acknowledgment of the payment.

It has further been submitted by the learned counsel for the petitioners that it is a civil dispute which has been given a colour of criminal case.

Learned counsel for the informant submits that out of 75 lacs only 29 lacs 01 thousand has been received by the petitioners and no other amount has been paid by the petitioners and the story of entire payment of the amount is false. He further submits that after investigation charge-sheet has been



submitted against the petitioners and the allegation have been found to be true.

The petitioners have challenged the cognizance order and want this Court to consider their defence and disputed questions of fact which cannot be considered at this stage.

The dispute of payment of entire amount can only be decided in a trial by examining the witnesses and this Court cannot accept the statement of the petitioner which is denied by the informant and quash the entire proceedings.

In view of the aforesaid facts, I am not inclined to interfere in this application.

Accordingly, this application is dismissed.

The Stay order dated 25.06.2019 is vacated.

The trial Court is directed to proceed in the matter expeditiously.

Let a copy of this order be communicated to the District Judge, Gopalganj through FAX and e-Mail for its compliance forthwith.

(Sandeep Kumar, J)

Vikas/-

U			
---	--	--	--

