

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10647 of 2021

Arising Out of PS. Case No.-917 Year-2017 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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1. Bijay Pathak S/O Late Kanhaiya Lal Pathak R/O C/O Late Kanhaiyalal Pathak, 26j, Khanpur Road, Naktala, Kolkata, West Bengal -700047.
 2. Vivek Poddar S/O Basant Poddar Posted As Chief Operating Officer , In Ideal Dealers Pvt. Ltd. Having Its Office At Sakr Sariya, Nh -7, Muzaffarpur, P.S. Kudhani, Pin Code -842001.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Uttam Kumar Sinha S/O Sitaram Sinha R/O Shahkund, P.S. - Shahkund, Dist. - Bhagalpur, Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dayanand Singh, Advocate
For the Opposite Party/s : Mr. Nand Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 25-04-2023 Heard learned counsel for the petitioners and learned
APP for the State.

This application has been filed for quashing of the order dated 03.05.2018 passed by learned Judicial Magistrate-1st Class, Bhagalpur in Complaint Case No. 917 of 2017 by which learned Magistrate has taken cognizance against the petitioners for the offences under Sections 420 of the Indian Penal Code.

Prosecution story in short is that complainant approached the Showroom of Ideal Dealer Pvt. Ltd at Muzaffarpur in order to purchase a vehicle in question but during the purchase of the vehicle in question, he mistakenly



left the documents in the office of said company. It has further been alleged that accused person no. 8 has also purchased the vehicle from the said company in the year 2007 for which he has also availed loan facility and was liable to pay monthly installment for the same. The company made the complainant as a guarantor of accused person no. 8 of the loan without taking consent.

It has been submitted by learned counsel for the petitioners that for the alleged offence of beginning on 20.07.2007, the present complaint case has been filed in 2017 and from reading of paragraph 3 of the complaint itself it appears that the opposite party no. 2 said that the documents may have been left at the place of occurrence and subsequently, he says that he has repaid the loan and all the documents have been returned to him.

From the aforesaid facts, it appears that it is a case of malicious prosecution by the opposite party no. 2 and the same cannot be sustained. Moreover, the delay in filing the complaint filed by the complainant has not been explained and it has been admitted that the documents have returned to the opposite party no. 2.

Considering the aforesaid facts and circumstances of



this case, this application is allowed and the order dated 03.05.2018 passed by learned Judicial Magistrate-1st Class, Bhagalpur in Complaint Case No. 917 of 2017 for the offences under Sections 420 of the Indian Penal Code is hereby quashed.

(Sandeep Kumar, J)

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