

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8677 of 2023

Arising Out of PS. Case No.-5578 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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SANJEEV KUMAR GUPTA SON OF LATE BISHWANATH GUPTA R/O HARIBANSH PARWATI COMPLEX, JAMAL ROAD, POLICE STATION-KOTWALI, DISTRICT- PATNA AT PRESENT FLAT NO.303, KALYANI COMPLEX, EXHIBITION ROAD, NEAR LAV KUSH TOWER, P.S.- GANDHI MAIDAN, DISTRICT- PATNA

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. MONI GUPTA WIFE OF SANJEEV KUMAR GUPTA R/O HARIVANS PARVATI COMPLEX, JAMAL ROAD, P.S.- KOTWALI, DISTRICT- PATNA AT PRESENT FLAT NO.303, KALYANI COMPLEX, EXHIBITION ROAD, NEAR LAV KUSH TOWER, P.S.- GANDHI MAIDAN, DISTRICT- PATNA

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Ranjan, Adv.
For the Opposite Party/s : Mr.Mithlesh Kumar Khare, APP.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 09-05-2023 Heard the parties.

The petitioner apprehends his arrest in a case registered for the offences punishable under Section 406, 420 and 120(B) of the Indian Penal Code.

Allegedly, the possession of Flat No. 303 was forcefully taken from the complainant and she was ousted from the said flat by the accused persons. The main allegation against the petitioner is that he along with other accused persons broke the lock of the entrance gate and started living in the same.

It is submitted by learned counsel for the petitioner that



petitioner is quite innocent and has committed no offence. No such occurrence as alleged ever took place. He has been falsely implicated in this case due to ulterior motive. The allegation levelled against the petitioner is not specific rather general and omnibus in nature. It is further stated that an agreement for sale dated 12.04.2017 was entered between the complainant and the petitioner for sale of the flat, namely, Flat No. 303 in which the cost of parking space was also included and the consideration price was fixed at Rs. 65 lacs. It is further submitted that the complainant had entered into an agreement for sale of the parking space in the year 2012 with one Sarita Devi and had taken a substantial amount of money. The son of Sarita Devi, namely Pankaj Kumar had lodged a criminal case on 26.08.2013 vide Kotwali P.S. Case No. 364 of 2013 for duping his mother. The fact seems to be concocted that the complainant has entered into a compromise as the document appears not be genuine because the said compromise was never filed in the criminal case vide Kotwali P.S. Case No. 364 of 2013 as the said Sarita Devi was insisting for Rs. 10 lacs and instead the complainant had inserted Rs. 1 lakh on account of which Sarita Devi resiled from acting on the said compromise. It is further relevant to state the petitioner came to know about



the dispute over the parking space as the son of Sarita Devi was not handing over peaceful possession of the parking space, which was under his physical control. The petitioner thereafter negotiated with Sarita Devi and an agreement was settled between the parties on payment of Rs. 10 lacs to Sarita Devi for handing over peaceful possession of the parking space and accordingly it was agreed that the proportionate amount of Rs. 10 lacs was to be reduced from the previous agreement. Accordingly, a fresh agreement dated 26.04.2017 was finalized replacing the earlier agreement and the amount of consideration money was reduced to Rs. 55 lacs and the payment which were made to the complainant on different dates subsequent to the earlier agreement were also incorporated in the said agreement. The complainant has signed the said agreement voluntarily on each page and thus there is no question of cheating or committing any forgery with the complainant. The period of validity of agreement was also extended to 5 months instead of 2 months. The amount of Rs. 55,00,000/- is mentioned in internal page nos. 2 & 5 of the agreement. The remaining pages of the earlier agreement were changed in which the complainant has signed on each page which clearly shows that the earlier agreement was superseded



and fresh agreement was entered into between the parties. It is further submitted that the allegation is that the draft provided by the petitioner is not genuine, is a figment of imagination of the complainant as she has never approached SBI to question regarding the validity or correctness of the draft and the averment in the complaint that she received a letter dated 14.11.2017 from the Bank Authority regarding the loan earlier advanced to the complainant being cancelled is itself a pointer that the draft was genuine. It is further submitted that in response to legal notice dated 20.09.2017, sent by the petitioner to complete the formality of sale deed, the complainant responded vide legal notice dated 23.09.2017, wherein she had accepted the factum of her having executed the agreement to sale deed dated 26.04.2017 in good faith of Rs. 55 lacs. Thus, the execution of agreement dated 26.04.2017 has been admitted by the complainant and therefore, when she has signed the document with open eyes, she cannot subsequently say that she has been misled by the contents stated therein. It is further submitted that the dispute is of purely civil nature but the complainant tried to give this case a criminal profile with a view to wreck vengeance and to harass the petitioner and his brother. The petitioner has earlier filed Gandhi Maidan P.S.



Case No. 10 of 2018 in which cognizance has been taken and the complainant and her husband is facing trial and the present complaint has been lodged as a counter blast to the earlier case filed by the petitioner. On allegation of breaking the lock of the entrance gate of the complainant, it is pertinent to state that this fact is fortified from the response of the legal notice dated 15.09.2017 wherein she has acknowledged that the keys of the flat were handed over to the petitioner. She did not allege that the petitioner or his brother had broken the lock of the gate of the flat and thus the allegation leveled in the complaint of breaking the lock is an afterthought. Petitioner has one criminal antecedent as mentioned in para-3 of this application.

Learned APP for the State as well as learned counsel for the opposite party no.2 opposed the prayer for bail and submitted that petitioner has committed cheating with the complainant on the basis of forged documents. Therefore, the offence under Sections 406, 420 of the Indian Penal Code is made out against the petitioner.

Having regard to the facts and circumstances of the case, as from the perusal of the record, it is evident that there is civil dispute between the parties, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the



learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending/successor Court in connection with Complaint Case No. 5578 (C) of 2018, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Anjani Kumar Sharan, J)

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