

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54709 of 2018

Arising Out of PS. Case No.-1141 Year-2015 Thana- ROHTAS COMPLAINT CASE
District- Rohtas

=====

Usha Kuer, W/o Late Ajit Kumar Tiwari, resident of Village - Kumhau, Post - Morsarai, P.S. - Shivsagar, Dist - Rohtas at present resident of C/o Ramadhar Dubey, Satyendra Nagar, Near Durga Chawk, Aurangabad, Dist - Aurangabad.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Premlata Devi, W/o Rajesh Kumar resident of Mohalla - Sherganj, P.S. Sasaram, Dist - Rohtas.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Bijay Shankar Choubey, Advocate
For the Opposite Party/s : Mr.Uday Pratap Singh, APP

=====

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

- 2 24-07-2024 This is an application under Section 482 of the Cr.P.C. praying for quashing of order of cognizance taken by the learned ACJM IV SJ XII, Sasaram, Rohtas on 1st of May, 2018. The issue relates to the sale of two pieces of land agreed to be purchased by the complainant from the petitioner. Admittedly, the petitioner received 9.5 Lakhs from the complainant as advance money. It was decided that the sale would have to be completed within 30th of April, 2012. However, the complainant did not approach the petitioner with the balance money to purchase the said land as well as to execute the registered deed of sale. Therefore, the petitioner sold out the property to another



person on 23rd of November, 2012.

2. The issue absolutely relates to non-performance of contract i.e., agreement of sale.

3. It is contended on behalf of the petitioner that, as the complainant failed to pay the rest of the amount beside the earnest money, the petitioner sold out the property to some third person. In the subsequent transaction, the criminal intention of the petitioner has not been proved. Since the dispute is absolutely civil in nature, complaint case under Sections 420/406 of the IPC cannot proceed.

4. In view of such discussion, the order of cognizance taken by the learned ACJM IV SJ XII, Sasaram, Rohtas on 1st of May, 2018 in Complaint Case No. 1141 C of 2015 is quashed and set aside.

5. The instant application under Section 482 of the Cr.P.C. is accordingly allowed.

(Bibek Chaudhuri, J)

uttam/-

U			
---	--	--	--

