

Arising Out of PS. Case No.-1180 Year-2011 Thana- VAISALI COMPLAINT CASE District-
Vaishali

... .. Petitioner/s

Versus

- Opposite Party/s

For the Petitioner/s : Mr. Jitendra Kumar, Adv.
For the Opposite Party/s : Mr. Raj Kishore Singh, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2. The instant criminal miscellaneous application has been filed under Section 482 of the Code of Criminal Procedure (in short 'Cr.P.C.') for setting aside the order dated 17.11.2012 passed by the court of learned Judicial Magistrate, 1st Class, Vaishali, in connection with Vaishali Complaint Case No. 1180/2011 by which the learned court has taken cognizance against the petitioner for the offences punishable under sections 323, 379, 417 and 504 of the Indian Penal Code.

3. Learned counsel for the petitioner submits that the



petitioner is innocent and his name has been dragged in the instant complaint case due to a land dispute and from the perusal of the complaint, it is clear that the complaint has been filed with regard to 1200 square feet land, so, the present matter is civil in nature and the competent civil court should be approached. Learned counsel further submits that the complainant claims to purchase a land from the petitioner for a consideration money of Rs. 84,630/- but the same gets falsified by the sale deed dated 29.09.2000 which shows that the said land was purchased for Rs. 16,000/- by the complainant and he had paid only Rs. 2100/- and the remaining amount of Rs. 13,900/- had to be paid at the time of receiving the original sale deed. Learned counsel further submits that the complainant neither tendered the remaining amount nor attempted to receive the original sale deed and the said sale deed is still in the possession of the petitioner and further, the sale deed was executed in the year 2000 and the instant complaint case was filed in the year 2011 after a lapse of eleven years without an explanation. Learned counsel further submits that the summons issued by the learned trial court were not served upon the petitioner, hence, he had no knowledge about the initiation of criminal proceeding against him and when he came to know



about the proceedings, he prayed for regular bail before the trial court on 11.04.2014 which was granted on the same day and the complainant has not approached the trial court with clean hands.

4. Mr. Raj Kishore Singh, learned APP for the State has opposed the prayer of the petitioner.

5. Heard both the sides and perused the order impugned and other materials. As per the prosecution, all the accused persons including the petitioner came at the house of the complainant, i.e., O.P. No. 2 and persuaded the O.P. No. 2 to purchase a particular land by showing some documents relating to it and thereafter, the petitioner is said to have executed a sale deed on 29.09.2000 at Hajipur for a land measuring 1200 square feet for a consideration amount of Rs. 84,630/-. If we look into all the averments made in the complaint then it appears that the instant matter relates to the purchase of the alleged 1200 Square feet land and the complainant (O.P. No. 02) filed the alleged sale deed with the complaint petition.

6. On perusal, it appears that the complainant purchased the said land for a consideration amount of Rs. 16,000/- and Rs. 2100/- was paid by him in advance for registration of the sale deed and the sale deed is said to have been executed in the year 2000 but the complaint was filed in



the year 2011 and such long delay in filing the complaint by the O.P. No. 2 creates a serious doubt in the allegations leveled by him in respect of the commission of the offences under Sections 323, 379, 417 and 504 of the IPC. It appears that the complainant (O.P. No. 2) filed the complaint alleging the said offences against the petitioner due to the civil dispute which was running in between him and the petitioner and he has filed the complaint merely in order to create pressure upon the petitioner to settle his disputes and has tried to give colour of criminal wrong to the alleged civil dispute and putting the petitioner on trial for the alleged offences will completely be harassment to him and the same would not serve the ends of justice.

7. Hence, the order taking cognizance of the alleged offences is hereby set aside and all the further proceedings which have arisen on account of the impugned order before the Trial Court in Complaint Case No. 1180 of 2011 are quashed. The complainant (O.P. No. 2) will have a liberty to avail the proper civil remedy for redressal of his grievance and the period spent by him in this criminal proceeding shall not be counted while computing the limitation period in respect of a civil case if he prefers the same for a civil remedy.

8. Accordingly, this petition is disposed of with the



aforesaid liberty.

(Shailendra Singh, J)

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