

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33400 of 2023

Arising Out of PS. Case No.-1769 Year-2016 Thana- GAYA COMPLAINT CASE District-
Gaya

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Santosh Kumar @ Raghvendra (Male), aged about 41 years, Son of Late Babban Prasad Singh, Resident of village - Kolhaura, P.S. - Bodh Gaya, Distt. - Gaya.

... .. Petitioner

Versus

1. The State of Bihar.
2. Mahendra Prasad Gupta (Male), Son of Late Baijnath Prasad Gupta, Resident of village - Telbiga Rajendra Path, P.S. - Kotwali, Distt. - Gaya.

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Amit Kumar Singh, Advocate
For the State	:	Mrs. Sharda Kumari, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 18-11-2024 Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. The present application has been filed for quashing the order dated 28.07.2017, passed by learned Judicial Magistrate-Ist Class, Gaya, in Complaint Case No. 1769 of 2016, by which the learned court below has been pleased to take cognizance for the offence punishable under Section 420 of the I.P.C. and summons have been issued against the petitioner and the other accused persons.

3. The prosecution case, in brief, is that in the last week of January, 2013, Rakesh Kumar Singh @ Munna,



Santosh Kumar @ Raghvendra (petitioner) and Rajesh Kumar Verma alongwith one unknown as Chandar Yadav who is willing to sell his land bearing Khata No. 548, Plot No. 935 measuring an area of 18½ decimals situated in front of the main gate of Magadh University, Bodh Gaya came to the complainant's house and showed the sale deed and possession documents to allure him. Thereafter, an agreement was made between them on total consideration amount of Rs. 42,32,000/- for the said land and for its registration Rs. 18,000/- was paid to the accused persons. Thereafter, the complainant came to know that the said Chandar Yadav was not the real person rather the real Chandar Yadav was not ready to sell the said land and the documents which were shown to the complainant are forged and fabricated. Thereafter, he met the accused persons and demanded his money. However, after evading, the co-accused Rakesh Kumar Singh gave a cheque bearing No. 213259 dated 20.08.2016 of Canara Bank, Gaya for Rs. 6,50,000/- to the complainant but which got bounced due to insufficient fund in the bank account. Thereafter, he sent demand notice to the accused on 04.11.2016 which was acknowledged by him but he neither paid the cheque amount nor any reply was given by him as such the accused persons conspired among themselves and



fraudulently and dishonestly inducted the complainant to get huge amount entrusted in the name of execution of sale deed and then issued the cheque knowing that no sufficient fund was available in the bank account of the accused persons.

4. It has been submitted on behalf of learned counsel for the petitioner that the petitioner is innocent and has falsely been implicated in the present case. It is further submitted that the complainant had made four witnesses in the complaint and out of which the witness nos. 1 and 2 are his full brothers. The matter relates purely to a civil dispute and filing of the criminal case against him is an abuse of the process of the court. The complainant in the complaint does not mention as to how and in what manner he parted with his money. He has stated in his solemn affirmation that he did not inquire about the land before purchase. It is further submitted that the real fact is that the petitioner had taken a loan of Rs. 15,00,000/- from Surendra Kumar who is brother of the complainant and in security thereof, he had pledged his 6.125 decimals of land bearing Khata No. 2, Plot No. 374, Thana No. 423 situated in Mauza-Turi Khurd by executing sale deed dated 14.11.2014 in favour of the witness no. 1, Lakhan Prasad, who is also the brother of the complainant. The petitioner in order to secure his land, had



drawn a post-dated cheque of Canara Bank, Bodh Gaya Branch, bearing No. 880440 dated 11.12.2015 for Rs. 12,50,000/-. It was agreed in writing dated 22.07.2015 that after refund of the loan amount, Surendra Kumar would return the said land and cheque bearing No. 880440 dated 11.12.2015 for Rs. 12,50,000/- to the petitioner but the complainant and his family having an evil eye on the petitioner's land caused the said Cheque bearing No. 880440 dated 11.12.2015 given as security of the land for encashment to be presented and after dishonour of the said cheque, the said Surendra Kumar lodged Kotwali P.S. Case No. 296 of 2016 on 02.09.2016 and Bodh Gaya P.S. Case 207 of 2016 on 14.06.2016 against the petitioner under Sections 406, 420 of the I.P.C. and Section 138 of the N.I.Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for quashing the order taking cognizance dated 28.07.2017, passed by learned J.M. Ist Class, Gaya in Complaint Case No. 1769 of 2016 dated 19.12.2016 for the offence under Section 420 of the I.P.C. and has submitted that the learned court below has rightly taken cognizance and issued summons against the petitioner and the other accused persons as the solemn affirmation of the complainant was recorded on 09.01.2017 and four inquiry witnesses have been examined on



behalf of the complainant in support of his case and they have supported the occurrence and sufficient material is available on the record.

6. Accordingly, the present quashing application filed on behalf of the petitioner is dismissed.

(Chandra Prakash Singh, J)

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