

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32320 of 2024

Arising Out of PS. Case No.-6328 Year-2023 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Barat Devi @ Brati Devi Wife Of Jairam Prasad R/O- Vill- Dhamapur, P.S- Ghoshi, Dist- Jehanabad
 2. Senu Devi Wife Of Ajeet Kumar @ Ajeet Kumar Gupta @ Ajeet Kumar Datta R/O- Vill- Dhamapur, P.S- Ghoshi, Dist- Jehanabad
 3. Ajeet Kumar @ Ajeet Kumar Gupta @ Ajeet Kumar Datta Son Of Sri Jairam Prasad R/O- Vill- Dhamapur, P.S- Ghoshi, Dist- Jehanabad

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pramod Kumar Son Of Sri Balgovind Prasad R/O- Mohalla Surbhi Vihar, Bhupatinagar, P.O - Dhelwa, P.S.- Ramkrishna Nagar, Dist- Patna(Complainant)

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate
For the Opposite Party/s	:	Mr. Shantanu Kumar, APP
For the Informant	:	Mr. Arun Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 29-05-2024 Heard Mr. Ajay Kumar Thakur, learned counsel appearing on behalf of the petitioners and the learned Additional Public Prosecutor for the State. The informant is represented by Mr. Arun Kumar, learned counsel.

2. The petitioner apprehends his arrest in connection with Complaint Case No. 6328 (C) of 2023, registered for the offences punishable under Sections 406, 420 and 120(B) of the Indian Penal Code.

3. Allegedly, on 15.03.2023, the accused persons including the petitioners executed an agreement to sell in favour



of the O.P. No. 2 with respect to a land for consideration amount of Rs. 32,11,000/-. Pursuant to the agreement an amount of Rs. 5 lakhs were handed over to the petitioner no. 1 and co-accused Ram Bilash Prasad. In token of the receipt of the amount, the petitioner no. 3 put his signature on behalf of the petitioner no. 1 as she is an illiterate woman. It is further alleged that thereafter the O.P. No. 2 further transferred an amount of Rs. 7 lakhs in the account of the petitioner no. 3 and one another accused. On 18.05.2023, the O.P. No. 2 along with accused persons and his associates went to the said plot for getting piling work done but a person of village *Udaini* came and protested the same and started making claim over the said plot. On account of the aforesaid incidence, the O.P. No. 2 refused to buy the said piece of land and asked the accused persons to return Rs. 12 lakhs, which he has given to the accused persons.

4. It is further alleged that the O.P. No. 2, thereafter, received a legal notice from the accused persons stating therein that if the remaining amount is not paid to the accused persons, the sale deed shall not be executed and the amount paid in advance shall be forfeited. The O.P. No. 2 immediately respond to the legal notice and requested to return the amount already paid but the accused persons refused to do so. In this way, the



petitioners and others cheated the O.P. No. 2 and fraudulently grabbed Rs. 12 lakhs.

5. Learned Advocate for the petitioners referring to Annexure-P/2 and Annexure-P/2(A) submitted that the land, in question, belongs to the petitioner no. 1 as well as one Ram Bilash Prasad and the same has been purchased way back in the year 1993 through a registered sale deed from the vendor Manju Devi. The aforesaid land was mutated in the name of petitioner no. 1 and her co-sharer. The rent receipts were also issued in their name. It is also contended that the land of the petitioner no. 1 and her co-sharer were also demarcated and they have been coming in peaceful possession of their respective share.

6. Mr. Thakur, learned counsel for the petitioner further argued that the agreement to sale clearly stipulated that the O.P. No. 2 was under obligation to ensure the payment of all the consideration amount till 15.07.2023 but the O.P. No. 2 only in order to grab land on a meager amount has instituted the present case. The complaint petition also does not disclose the name of the persons, who have made objection in course of piling work allegedly being done by the O.P. No. 2. It is also contended that prior to the institution of the complaint, the petitioners have also caused and legal notice served upon the



O.P. No. 2 and after being realized that either the O.P. No. 2 has to ensure the payment of the rest amount or his advance amount shall be forfeited; the present complaint has been instituted with a view to put pressure upon the petitioners. It is lastly contended that the petitioners are bona fide land owner and no criminal prosecution will be maintainable in the facts and circumstances of the present case.

7. On the other hand, learned counsel for the informant opposed the pre-arrest bail application and submits that the O.P. No. 2 is still ready to make the rest of the payment, if she would be allowed peaceful possession over the land. Learned Advocate for the O.P. No. 2 admitted the fact of agreement to sale, but refuted the contention that the petitioner is a bona fide land holder. However, in any view of the matter either he seeks peaceful possession of the land or refund of the amount.

8. Having heard the learned counsel for the respective parties, this Court *prima facie* find that the agreement to sale is admitted by both the parties and the materials available on record suggest that the petitioner no. 1 to be owner of the land and on the basis thereof, she executed an agreement to sale. The allegation levelled in the complaint pre-dominantly appears to



be civil in nature and for which the O.P. No. 2 has already remedy before the Civil Court of competent jurisdiction. The criminal prosecution cannot be used for the purposes of settlement between the parties.

9. Thus, considering the aforementioned facts, let the petitioners above named be released on bail, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Patna in connection with Complaint Case No. 6328 (C) of 2023, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioners.

10. Before parting with the final outcome, this Court also take note of the undertaking of the parties given before this Court that both the parties will take all the sincere efforts and sit together to settle the dispute outside the Court.

(Harish Kumar, J)

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