

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 31136 of 2016

Arising Out of PS. Case No.-86 Year-2016 Thana- COMPLAINT CASE District- Banka

Md. Ozair Alam, Son of Late Hazi Wazahat Hussain Resident of Mohalla-
Mallick Tola, Banka, P.O. and P.S.- Banka, District-Banka

... .. Petitioner/s

Versus

1. State of Bihar
2. Niranjana Yadav, son of Arjun Prasad Yadav Resident of village - Laskari ,
P.O. Jogdiha and P.S. -Banka, Dist.- Banka

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Md. Mushtaque Alam, Advocate
For the Opposite Party/s : Mr. Rajballabh Singh, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

12 15-07-2024

1. The petitioner is accused in connection with Complaint Case No. 86 of 2016, cognizance of which was taken for the offence under Section 420 of the IPC.

2. The petitioner has filed the instant Cr. Misc. Case for quashing of the above-mentioned criminal proceeding pending against him in the Court of learned Judicial Magistrate, Banka.

3. The Opposite Party No. 2 is the complainant before the Trial Court. The case of the Opposite Party No. 2/complainant is that he purchased a piece of land from the petitioner on valuable consideration. The sale-deed was duly registered. However, the petitioner allegedly sold out the same



land to different persons and after purchase, he came to know that different persons were demanding possession of the said land from the Opposite Party No. 2. Thus, it is pleaded that the petitioner had committed cheating upon the Opposite Party No. 2, saying, inter alia, that he was the absolute owner in respect of the disputed land.

4. It is submitted by the learned Advocate for the petitioner that the dispute between the parties is completely civil in nature. On the basis of registered deed of sale, the Opposite Party No. 2 became the owner of the disputed land. He mutated his name on the basis of the said deed of sale. He has been paying the land rent in respect of the said property and the same is in his possession. Subsequently, one Sikandar Yadav and others tried to disposes him. The petitioner lodged an application before the Bihar Land Dispute Redressal Authority for appropriate relief. The authority passed an order on 31st of December, 2014, holding, inter alia, that the dispute between the Opposite Party No. 2 and the said Sikandar Yadav and others is absolutely civil in nature and the parties were advised to file civil suit before the Civil Court of competent jurisdiction. There was no allegation before the Bihar Land Dispute Redressal Authority that the petitioner committed cheating by selling out a



particular piece of land to the Opposite Party No. 2 as well as other different persons. There is absolutely no evidence to the effect that the petitioner sold out the disputed land to some persons other than the Opposite Party No. 2.

5. I have already recorded that the name of the Opposite Party No. 2 has been mutated in the Government record of rights. Had there been any claim over the same property by any other person, the land would not have been mutated in his name. The dispute specifically relates to the Opposite Party No. 2 and one Sikandar Yadav and others.

6. Considering such aspect of the matter, I am of the considered view that the Opposite Party No. 2 has not been able to make out any case under Section 420 of the IPC against the petitioner and order of cognizance taken by the learned Judicial Magistrate, Banka is illegal and cannot stand.

7. For the reasons stated above, the order of cognizance in Complaint Case No. 86 of 2016 dated 4th of June, 2016 is quashed and set aside.

8. The instant Cr. Misc. Case is allowed.

(Bibek Chaudhuri, J)

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