

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52974 of 2023

Arising Out of PS. Case No.-907 Year-2017 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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KUMAR PRABHAKAR S/O ASHOK KUMAR SINGH PROPRIETOR OF
DIPRO COMPANY, RESIDENT OF MOHALLA- G.C. BANERJEE ROAD,
MUNDICHAK, P.S- TILKAMANJHI, DISTRICT- BHAGALPUR.

... .. Petitioner/s

Versus

1. The State of Bihar
2. SHYAM KISHORE CHOUDHARY S/O LATE RAJENDRA PRASAD
CHOUDHARY R/O VILLAGE- MAHDEVA, P.S- BARIARPUR,
DISTRICT.- MUNGER.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Jha, Advocate
For the Opposite Party/s	:	Mr. Shantanu Kumar, APP
For the Opposite Party no.2	:	None

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

5 09-05-2024 Heard learned counsel for the petitioner and learned

APP for the State. No one appears on behalf of the opposite

party no.2 inspite of valid service of notice.

2. The petitioner has filed the instant application
praying for quashing the order dated 20.7.2019 passed in
Kotwali (Jogsar) P.S Case no. 907 of 2017, GR no. 6697 of
2017 whereby the learned Chief Judicial Magistrate, Bhagalpur
was pleased to take cognizance under sections 419, 420, 467,
468, 471 and 506 of the Indian Penal Code.

3. As per the prosecution case, the informant (opposite
party no.2) in his written complaint addressed to the Officer In-
charge of the police station states that he purchased 4 *kathas* of



land appertaining to *Khata* no. 2274, *Khesra* no.5803, *Thana* no. 255, *Halka* no.4 in Jagdishpur from the petitioner in the name of his wife at the rate of Rs. 1,85,000/- per *katha*. The same was registered on 6.4.2015 with registration serial no. 3294 of 2015. it is further stated that on making an application for mutation of the land, his application was rejected for the reason that it was stated that there is no land in the name of Kumar Prabhakar ie the petitioner. It is further stated that information was given by the informant to the petitioner but for the last three years, no steps have been taken by him. On the other hand, he has been threatened by the petitioner.

4. Learned counsel appearing for the petitioner submits that the petitioner has been falsely implicated in the case. From bare reading of the FIR and even accepting the statements made therein, it is a case of purely civil dispute between the parties wherein the only reason for lodging the FIR is that an order of mutation was not passed by the authorities concerned in favour of the wife of the informant with respect to the land in question purchased from the petitioner. It is submitted that no offence whatsoever is made out against the petitioner and the FIR is fit to be quashed on this ground alone. It is further submitted that subsequently by order dated



30.7.2022 (Annexure 3) the land in question which is the subject matter of dispute between the parties has been mutated in the name of the wife of the informant. It is probably for this reason that inspite of service of notice the informant is not appearing in the case and has lost interest. Learned counsel for the petitioner places reliance on the judgment of the Hon'ble Supreme Court in the case of Indian Oil Corporation vs. NEPC India Limited & Ors.; (2006) 6 SCC 736 wherein the Hon'ble Supreme Court has deprecated the growing tendency in the business circles to convert purely civil disputes into criminal cases.

5. The application is opposed by learned APP for the State.

6. Having heard learned counsel for the parties and having perused the material on record, this Court finds that the allegation in the FIR is to the effect that four *kathas* of land fully described therein which was purchased by the informant in the name of his wife from the petitioner, on an application for mutation being filed by the informant's wife was not mutated in her favour. This has led to filing of the FIR. In the opinion of the Court, the dispute as mentioned in the FIR is purely civil dispute between the parties. Even otherwise, the grievance of the informant appears to have been redressed insofar as by order



dated 30.7.2022 brought on record by the petitioner as Annexure-3 to the petition, the land has now been mutated in favour of the wife of the informant. In view of the facts and circumstance of the case, in the opinion of this Court, the matter being a purely civil dispute together with the law laid by the Hon'ble Supreme Court in the case of Indian Oil Corporation vs. NEPC India Limited & Ors., the Court finds that the petitioner has made out a case for allowing the instant application.

7. The application is allowed and the order taking cognizance dated 20.7.2019 passed in Kotwali (Jogsar) P.S Case no. 907 of 2017 by the learned Chief Judicial Magistrate, Bhagalpur is hereby quashed.

(Partha Sarthy, J)

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