

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61407 of 2023

Arising Out of PS. Case No.-6835 Year-2022 Thana- PATNA COMPLAINT CASE District-
Patna

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1. U. N GUPTA @ UDHAV NARAYAN GUPTA son of Kapil Dev Prasad Village- R/o- Office 24, Shiv Aprt. Gyatri Mandir Road Kankarbagh Ps- Kankarbagh Dist- Patna
 2. N.K Sharma @ Nawal Kishor Sharma son of Sakal Deo Sharma Village- R/o- Office 24, Shiv Aprt. Gyatri Mandir Road Kankarbagh Ps- Kankarbagh Dist- Patna
 3. Sipal Kumar @ Sipal Kumar Pal son of Late Ram Roop Pal Village- R/o- Office 24, Shiv Aprt. Gyatri Mandir Road Kankarbagh Ps- Kankarbagh Dist- Patna
 4. Mukteshwar Prasad son of Bhikhari Prasad Village- R/o- Office 24, Shiv Aprt. Gyatri Mandir Road Kankarbagh Ps- Kankarbagh Dist- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pankaj Kumar son of Sri Chandra Bhushan Sharma Mohalla- Hanuman Nagar White House House No-9, Ps- Patrakar Nagar Dist- patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. V.M.K. Sinha, Advocate
		Mr.Manish Chandra Gandhi, Advocate
For the Opposite Party/s	:	Mr.Abhay Kumar Roy, APP
For the informant	:	Mr. Niraj Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 29-02-2024 Heard Mr. V.M.K. Sinha, learned counsel along with

Mr. Manish Chandra Gandhi learned counsel appearing on

behalf of the petitioners; Mr. Abhay Kumar Roy, learned APP

for the State and Mr. Niraj Kumar, learned counsel for the

informant.

2. The petitioners seek pre-arrest bail in connection

with complaint Case No.6835 of 2022 registered for the



offence(s) punishable under Sections 406, 420, 467, 468, 471/34 of the Indian Penal Code but cognizance has been taken under Section 406, 420, 468 and 471/34 of the Indian Penal Code.

3. As per the allegation made in the complaint, a negotiation to sell six katha of land, appertaining to Tauji No.6398, Khata No.10, Survey Plot No.1342, situated at Mauja Jujharpur, Survey Thana, Phulwarisharif, present P.S. Gauri Chak, Patna, too place between the complainant and Bihar Rehabilitation and Welfare Institute (hereinafter referred to as the “institute”). The land in dispute is alleged to have been sold by registered sale deed No.5382 dated 02.06.2006 in the name of the Institute through Dr. Saroj Prasad, the Director of Institute by Sri Rewt Narayan Singh. The said piece of land was thereafter sold to the complainant by the institute, who had authorized to one Bandana Sinha to execute the sale deed in favour of the complainant and the said sale deed No.5974 dated 11.06.2019 was executed in favour of the complainant, a copy of which has been brought on record along with the counter affidavit. The complainant, after execution of the sale deed, could not come into the possession of the land, for which he has already paid a total sum of consideration amount of rupees twenty lakhs to the Vandna Sinha, who had executed the sale



deed, as having found that one Smt. Neelam Devi Jain claims her title over the said land. Specific statement has been made in this regard in paragraph no. 12 of the complaint petition.

4. Mr. V.M.K. Sinha, learned counsel appearing on behalf of the petitioners, submitted that petitioners are the members of the committee which runs the institute. The allegation against the petitioners are that they, being the members of the committee, have authorized, with consent of the other members of the committee, one Bandana Sinha to accept consideration amount of rupees twenty lakhs from the complainant and after complainant having deposited the entire amount of consideration, the said Bandana Sinha executed a sale deed dated 11.06.2019 in favour of the complainant. Learned counsel further submitted that the institute had also claimed right over the said property on the basis of the valid sale deed No.5382 dated 02.06.2006 which was duly executed by Rewat Narayan Singh and the complainant after having verified the spot and getting satisfied had deposited the consideration amount in the account of Bandana Sinha and thereafter as per the agreement, the sale deed was executed and there is no element of any forgery to have been committed on behalf of petitioners on the ground that complainant was not able to come



into the possession of the land in question which was purchased by him. Learned counsel further submitted that the complainant, instead of resorting to file complaint against said Bandana Sinha, as per the allegation made in paragraph no.12 of the complaint, or by taking recourse to filing title suit and for recovery of possession over the land on the basis of the sale deed, duly executed by the petitioners, has instead implicated the petitioners in a false criminal case. The petitioners are ready to return the entire amount, claimed by the complainant, only when a competent civil court declares that in any manner the petitioners have breached the contract. Admittedly, in the present case, by filing a complaint on the basis of allegation which is purely civil in nature, the petitioners who are members of the committee of the institute cannot be held responsible for the same.

5. Mr. Niraj Kumar, learned counsel has tendered his appearance on behalf of the complainant and submitted that the petitioners in a well planned manner, have committed forgery with the complainant by executing a sale deed with respect to the land in dispute on the basis of a sale deed, allegedly executed by the original land holder, namely, Rewat Narayan Singh and petitioners, being members of the Executive



Committee, who has authorized one other member Bandna Sinha to execute sale deed, have committed crime and must face prosecution for alleged offences under Sections 406, 420, 467, 468 and 471/34 of the Indian Penal Code.

6. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail.

7. Having heard the rival submissions made on behalf of the parties, as well as, the allegation made in the complaint against the petitioners and other co-accused, it is admitted fact that on the basis of sale deed dated, duly executed by one Rewat Narayan Singh in the year 2006 in favour of the petitioners' institute through Saryu Prasad, Managing Director of the institute *vide* a valid sale deed No.5362 dated 02.06.2006. However, no documents have been brought on record to show that the said institute got the land in question mutated in the circle office. The institute authorized one of its members, Bandana Sinha to execute sale deed in favour of the complainant after accepting the consideration amount in connection with the land in question, as has been discussed in the above paragraphs and valid sale deed was executed on behalf of the Institute by Bandna Sinha in favour of the complainant on 11.06.2019. The complainant has admitted in



paragraph no.12 of the complaint that the said piece of land has been claimed by one Neelam Devi Jain. The complainant has not disputed that he has not inspected the land before purchasing from petitioners' institute, however, he was also provided by the petitioners' institute the land possession certificate which confirms that the land has been mutated in the name of the petitioners' institute and the land was free from all encumbrances. The complainant once having been satisfied before execution of the sale deed, has afterwards proceed to make allegations of forgery against the institute and the members of the institute, named in the complaint petition. Such act of the complainant seems to be an afterthought to pressurize the petitioners' institute to return the total amount of rupees twenty lakhs.

8. The parties may amicably settle the dispute or they may take recourse to filing title suit over the land in question or in alternative, the complainant may file money suit for recovery of the money, claimed by him, considering the fact that admittedly at the time of sale agreement, the complainant had not questioned the title of the petitioners' institute.

9. I am of the opinion that even after considering the fact that the allegation made against the petitioners *prima facie*



appears to be sustainable, the same cannot sustain the indictment for forgery against the petitioners. The matter *prima facie* appears to be civil in nature.

10. At this stage, the petitioners, who are members of the committee with the view to facilitate amicable resolution have agreed to persuade the institute to at least return 25% of the total amount of consideration to the complainant within a period of eight weeks from the date of passing of this order.

11. In the facts and circumstances of the case, the petitioners, above named, are directed to be released on **provisional pre-arrest bail for a period of eight weeks**, in the event of their arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-IX, Patna in connection with complaint Case No.6835 of 2022, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

12. In case, the petitioners furnish a receipt with respect to 25% amount out of total consideration amount of rupees twenty lakhs before the District Court then, the provisional bail of the petitioners shall be made absolute on



such terms and conditions, as the court below deems it fit and proper.

13. This order is conditional, considering the fact that in the meantime, the complainant, as well as, the petitioners' institute must resolve the dispute amicably by either agreeing to cancel the sale deed already executed in favour of the complainant or they by jointly filing title suit to claim title over the land in question before a competent civil court within a further period of six months and file joint affidavit to that effect before the District Court.

14. With the aforesaid observation/direction, the application stands disposed of.

(Purnendu Singh, J)

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