

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62299 of 2023

Arising Out of PS. Case No.-820 Year-2021 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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Kumar Prabhakar S/O Ashok Kumar Singh R/O Mohalla- G.C. Banerjee
Road, Mundichak, Ps. Tilkamanjhi, Dist. Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Punam Devi W/O Sri Devi Prasad R/O Village- Bahuar Chandra Nabagarhi,
Ps. Civil Line Dist. Gaya

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Jha, Advocate
For the State	:	Mr. Satyendra Prasad, A.P.P.
For the O.P. No.2	:	Dr. Manoj Kumar, Advocate
		Ms. Kshem Sharma, Advocate
		Ms. Sweety Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 23-04-2024 Heard the parties.

2. This application has been filed for quashing of the
F.I.R. with regard to the petitioner being Kotwali (Tilkamanjhi)
P. S. Case No. 820/2021 dated 01.12.2021 registered under
Sections 406, 420 of the Indian Penal Code.

3. As per the prosecution case, this petitioner in
connivance with two other F.I.R. named accused persons
fraudulently took Rs. 8,75,000/- from the O.P. No. 2 in the name
of providing a piece of land at Mouja Puraini, Thana Jagdishpur
Block and Anchal Jagdishpur, District Bhagalpur bearing Thana
No. 255, Halka No. 04, Jamabandi No. 5789, Area- 3600 sq.



feet but executed the sale deed only for an amount of Rs. 4,97,000/- and did not provide her the possession upon the land in question. On 12.09.2021, when O.P. No. 2 went to the house of this petitioner to request him to provide the possession upon her purchased land, this petitioner and others abused and insulted her and threatened her with dire consequence if she contacted him again.

4. Learned counsel for the petitioner submits that the dispute between the parties is purely of civil nature which has been given criminal colour. It is not in dispute that petitioner has sold his own land to the O.P. No. 2 for consideration in the year 2014, but grievance of the O.P. No. 2 is that petitioner is not handing over the possession of the land. He further submits that petitioner after selling the land has no concern with the land and possession has also been handed over to the O.P. No. 2. It is further submitted that like the O.P. No. 2, petitioner has sold different lands to different persons, but no one has any objection, but for the reasons best know, the present false case has been instituted against the petitioner that he is not handing over the possession to the O.P. No. 2. The falsity of the prosecution case would be evident from the fact itself that the occurrence is of 2014 and present case has been lodged after



lapse of more than 7 years in the year 2021 without any plausible explanation for the same. It is not the case of the prosecution that petitioner has not executed the sale deed in favour of the O.P. No.2 after taking the consideration money. It is also not the grievance of the O.P. No.2 that the land in question which was sold to her was defective or there was any discrepancy in the sale deed. He lastly submits that even if the entire facts mentioned in the F.I.R. are taken into to be true, no offence under Section 406 of 420 of the Indian Penal Code is made out against the petitioner and as such, continuation of proceeding against the petitioner would amount to abuse of process of court.

5. However, learned counsel for the O.P. No. 2 submits that there is specific allegation against the petitioner that even after execution of the sale deed he has not handed over the possession of the land in question to the O.P. No.2 and mistreated her when she demanded the same. As such, at this stage, it cannot be said that prima facie no case is made out against the petitioner.

6. In the present case, even if the entire facts mentioned in the F.I.R. be taken into consideration in its entirety, no case under Sections 406 and 420 of the Indian Penal



Code is made out against the petitioner. The gist of offence prescribed under Section 406 of the Indian Penal Code is misappropriation done in a dishonest manner. In this case, there is no allegation that the petitioner has misappropriated any money. Similarly, in the present case, there is no allegation that there was any dishonest intention on the part of the petitioner from the very beginning and as such, no offence is made under Section 420 of the Indian Penal Code against the petitioner. Merely because the possession was not handed over to the O.P. No. 2, it does not give rise to any criminal offence. At best, it gives rise to a liability of civil nature and criminal complaint was therefore, not competent.

7. Having heard the submissions advanced by the learned counsel appearing on behalf of the parties and on perusing the materials available on record and the F.I.R., I am satisfied that a criminal proceeding initiated by the O.P. No. 2 against the petitioner is wholly unwarranted.

8. In view of the foregoing discussions, F.I.R. being Kotwali (Tilkamanjhi) P. S. Case No. 820/2021 dated 01.12.2021, registered under Sections 406, 420 of the Indian Penal Code is, hereby, quashed with regard to the petitioner only.



9. This quashing application stands allowed.

(Prabhat Kumar Singh, J)

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