

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49137 of 2024

Arising Out of PS. Case No.-374 Year-2022 Thana- LALIT NARAYAN UNIVERSITY
District- Darbhanga

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1. Rishi Kapoor Jha S/O Late Abhay Chandra Jha Resident of Ward no. 1, Ohalla Azamnagar Alafganj, P.O.-Lalbagh, P.S.-L.N.M.U, Distt-Darbhangha, Bihar-846004
 2. Suman Kumar Jha S/O Late Abhay Chandra Jha Resident of Ward no. 1, Ohalla Azamnagar Alafganj, P.O.-Lalbagh, P.S.-L.N.M.U, Distt-Darbhangha, Bihar-846004
 3. Priyaranjan Mannu S/O Late Abhay Chandra Jha Resident of Ward no. 1, Ohalla Azamnagar Alafganj, P.O.-Lalbagh, P.S.-L.N.M.U, Distt-Darbhangha, Bihar-846004

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 65366 of 2024

Arising Out of PS. Case No.-374 Year-2022 Thana- LALIT NARAYAN UNIVERSITY
District- Darbhanga

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1. Mukul Anand S/O Late Abhay Chandra Jha R/O Ward No. 1, Mohalla- Azamnagar Alafganj, P.O- Lalbagh, P.S- L.N.M.U. Distt.- Darbhanga, Bihar- 846004.
 2. Manoranjan Jha S/O Late Abhay Chandra Jha R/O Ward No. 1, Mohalla- Azamnagar Alafganj, P.O- Lalbagh, P.S- L.N.M.U. Distt.- Darbhanga, Bihar- 846004.
 3. Ravi Ranjan Ravi @ Raviranjan Jha S/O Late Abhay Chandra Jha R/O Ward No. 1, Mohalla- Azamnagar Alafganj, P.O- Lalbagh, P.S- L.N.M.U. Distt.- Darbhanga, Bihar- 846004.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manohar Lal Ahuja S/O Late Bhagchandra Ahuja R/O Flat No. P 102 SN Rai Road No.-3, Chatterjee Colony Sahapur, Kolkata- 700038.

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 49137 of 2024)

For the Petitioner/s	:	Mr. Sitanshu Shekhar Singh, Advocate
For the State	:	Mr. Bharat Lal, APP



(In CRIMINAL MISCELLANEOUS No. 65366 of 2024)

For the Petitioner/s : Mr. Sitanshu Shekhar Singh, Advocate
For the State : Mr. Akshay Lal Pandit, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 18-12-2024 Heard Ld. counsel for the petitioners, Ld. APP for the State and learned counsel for the informant.

2. The present petition has been filed on behalf of the petitioners, apprehending their arrest, in connection with L.N.M.U. P.S. Case No. 374 of 2022, dated 14.10.2022, registered for the offences punishable under Sections 406 and 420 of the Indian Penal Code.

3. As per the allegation, emerging from the written report of the Developer Partnership Firm, is that the Developer Partnership Firm entered into development agreement dated 23.05.2022 with the accused persons for development of 4 *Katha* land, belonging to the accused persons. However, the developer firm could not get the map passed by the local Municipal Corporation on account of failure of the accused persons to supply original documents of the land in question. It is further alleged that part of the land was already mortgaged to a bank, but the same was concealed by the accused in the contract. It is also alleged that even before the development and construction of the building on the land in question, the accused persons were entering into agreement for sale of flat. The money



of Rs. 21 lac was given as a security to the accused persons, out of which, only Rs. seven lac has been returned after filing of Civil Suit for specific performance bearing Title Suit No. 638 of 2022, in the Court of Sub Judge-I, Darbhanga, against the accused persons herein.

4. Ld. counsel for the petitioners submits that the Petitioners are innocent and have falsely been implicated in this case. He further submits that the alleged facts and circumstances constitute at most a civil dispute between the parties and no offence is made out at all and the informant has already preferred Civil Suit for specific performance against the petitioners, which is pending consideration.

5. To substantiate his submission, learned counsel for the petitioners refers to clause XXIII (O) of the contract, which provides for reference of any dispute between the parties in regard to the agreement to arbitrator. He further submits that the informant has never given any notice in regard to any matter whatsoever. The whole claim of the informant that despite his request, the original documents were not provided by the accused persons, is false baseless. They have never asked for any original documents from the petitioners. The informant has not shown any letter/notice sent to the petitioners asking for



such documents. He further submits that even at the time of agreement itself, as per the clause of the contract, photocopy of all the documents were supplied to the informant. Thereafter, the informant never asked for any documents. The claim of oral request is false and without any basis.

6. He further submits that only a small part of the land was mortgaged to the bank and even that mortgage has been redeemed by repaying the loan to the bank. He further submits that as a matter of fact, it is the informant who has failed to perform his part of the contract and has not completed the development of the land up to April, 2023, which was stipulated in the agreement. As per the agreement, it was stipulated that after completion of the development by April, 2023, the security money of Rs. 21 lac would be returned by the petitioners. The informant could not get the map of the site plan approved by the local Municipal Corporation for legal reasons and the accused persons are no way responsible for such failure of the informant. Hence, without any fault of the accused persons, the informant/ Developer Firm has failed to execute the agreement within time. Hence, the petitioners rescinded the agreement and offered the informant to return the total security money of Rs. 21 lac by giving notice. But that notice was not replied by the informant.



7. He further submits that due to failure of the informant to perform his part of contract, the petitioners suffered huge loss as they had demolished their old structure on the land, so that the informant Firm could go ahead for development of the land.

8. Hence, there is no offence made out as per the facts and circumstances of the case. At most, there is a dispute of civil nature, but the informant has not invoked the clause of the contract providing for reference of any dispute to arbitration. Even notice was not given by the informant before filing the civil suit.

9. It is also stated in paragraph no. 2 of the bail petition that the petitioner has not moved this Court earlier either for anticipatory bail or regular one in the instant case.

10. It has further been stated in paragraph no.3 of Criminal Miscellaneous No. 49137 of 2024 that the petitioner nos. 1 and 2 have two criminal antecedents, whereas petitioner no. 3 has only one criminal antecedent. However, in Cr. Misc. No. 65366 of 2024, petitioner no. 1 has two criminal antecedents, whereas petitioner nos. 2 and 3 have only one criminal antecedent.

11. However, Ld. APP for the State and learned



counsel for the informant vehemently oppose the prayer of the petitioners for bail submitting that the accused persons have committed fraud by concealing the fact of mortgaging the part of the land to the bank and they have not supplied the original documents to the developer for proceeding ahead with development plan.

12. Considering the aforesaid facts and circumstances, I find that the alleged facts and circumstances, *prima facie*, do not constitute any offence and at most, there is civil dispute between the parties and the informant has already filed a civil suit for specific performance.

13. Accordingly, **this petition is allowed**, directing the petitioners, above-named, to be enlarged on bail, in the event of their arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of Ld. A.C.J.M.-V Darbhanga, in connection with L.N.M.U. P.S. Case No. 374 of 2022, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and on the following conditions:

(i) In case, it is brought to the notice of the court



below that the petitioners have criminal antecedents other than the disclosed one, Ld. court below shall cancel the bail bonds of the petitioners after hearing them and getting satisfied that the petitioners have concealed their criminal antecedents despite their knowledge of the same.

(ii) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, Ld. court below shall cancel the bail bonds of the petitioners.

(Jitendra Kumar, J)

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