

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9662 of 2018

Arising Out of PS. Case No.-1841 Year-2016 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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1. Madan Prasad, Son of late Ram Lakhan Prasad
 2. Premlata Devi, Aged 70 Years Wife of Madan Prasad Both are the residents of Moahlla- Jagir, P.S. Nagar, District- Begusarai, at Present residing at 85, H.B.Road, Bhagwati Sadan Lalpur, P.S. lalpur, District- Ranchi, Jharkhand.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ranjeet Kumar Son of Late Jagdish Prasad Resident of Village Mohalla- Jagir, P.S. Town, District- Begusarai.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Puneet Siddhartha, Advocate
		Mr. Zeesham Khan, Advocate
For the Opposite Party/s	:	Mr. Surendra Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

7 08-01-2024 1. Heard learned counsel for the petitioners as well as learned APP for the State.

2. Twice notices were issued earlier, but the notice was not received by the O.P. No.2, ultimately this Court ordered for publishing paper publication in pursuance whereof the notices were published in paper, as would manifest from the office report dated 16.05.2019. Since paper publication has been done in the present case as it is deemed that the notices have been validly served on the O.P. No.2.

3. The learned counsel for the petitioners next submit that one Santosh Rai had also filed Complaint Case No.1848(c)



of 2016 against the present petitioners in which the present petitioners moved before this Court by filing Cr. Misc. No.16409 of 2018. The said Cr. Misc. No.16409 of 2018 was allowed by order dated 22.02.2023 passed by learned co-ordinate Bench.

4. The learned counsel next submits that the allegations as alleged by Santosh Rai in Complaint Case No.1848(c) of 2016 is akin to what has been alleged against the petitioners in the present complaint case. The learned counsel further submits that the petitioners are senior citizens and from perusal of the allegations as alleged in the complaint, it would manifest that the dispute was purely civil to which a criminal colour was given. Learned counsel for the petitioners submits that one Maheshwar Singh had entered into an agreement with petitioner no.2, Premlata Devi, wife of petitioner no.1 on 12.08.2013 with respect to a land as detailed in the complaint case, the agreement was with respect to 2 Katthas of land at Begusarai for a consideration of Rs.81 lacs out of which in terms of the agreement dated 12.08.2013 Maheshwar Prasad Singh gave an amount of Rs.21 lacs to the petitioner no.2. It is next submitted that since Maheshwar Prasad Singh was not in a position to purchase the entire land for a consideration of Rs.81



lacs, as such a subsequent agreement was entered on 03.08.2015 in between Madan Prasad (Husband of Petitioner No.2) and Maheshwar Prasad Singh, Kameshwar Prasad Singh, Santosh Rai and Ranjeet Singh wherein they agreed to pay a sum of Rs.15 lacs each for purchasing the said 2 Katthas of land. The learned counsel next submits that since Maheshwar Prasad Singh had earlier paid an amount of Rs.21 lacs as such in terms of the agreement dated 03.08.2015 (Annexure-4), it was agreed that rest of the amount would be paid in the manner as recorded in the said agreement. Accordingly, Maheshwar Prasad Singh, Kameshwar Prasad Singh, Santosh Rai and Ranjeet Singh (O.P. No.2 herein issued) issued cheque of Rs.15 lacs each in favour of Madan Prasad.

5. It is submitted that since the petitioners had received Rs.21 lacs earlier and thereafter received Rs.60 lacs by way of the aforesaid four cheques as such they executed three sale deeds i.e. sale deed dated 11.08.2015 (Annexure-5) in favour Ranjeet Singh and Santosh Rai for 10 dhurs, sale deed dated 11.08.2015 (Annexure-6) in favour Kameshwar Prasad Singh for 1 Kattha and sale deed dated 12.08.2015 (Annexure-7) in favour Maheshwar Prasad Singh for 10 dhurs.

6. Learned counsel thus submits that the petitioners



on the assurance that the cheque would be encashed had executed the sale deed believing the O.P. No.2 and other three persons as recorded herein above, but when the cheques were presented for encashment all the four cheques bounced. Accordingly, the petitioner no.1 instituted four different complaint case against the four accused persons including the O.P. No.2 herein.

7. The learned counsel next submits that the moment the complaint case came to be instituted after the cheque in question bounced the present false complaint case came to be instituted by Ranjeet Singh.

8. The learned counsel next submits that based on similar allegation Santosh Rai had also instituted the aforesaid complaint case which was quashed by a learned coordinate bench of this Court as recorded herein above.

9. The learned counsel next submits that from perusal of the allegation as alleged in the complaint it would manifest that the dispute was purely civil to which a criminal colour was given. It is further submitted prima facie no offence under Section 420 of the IPC has been made out as it cannot be said that petitioner had any intention of cheating right from the beginning when petitioners on their part had executed the sale



deed as recorded herein above in lieu of the consideration which they received but the consideration which they received by way of cheque bounced leading to institution of complaint cases against the accused persons including the O.P. No.2.

10. Learned counsel thus submits that this perhaps explained why the O.P. No.2 was evading the notice issued by this Court.

11. The learned APP for the State is not in a position to rebut the submission of the learned counsel for the petitioners.

12. Considering the submissions made by the learned counsel for the petitioners, the order dated 22.04.2017 passed by the learned Additional Chief Judicial Magistrate, VIth, Begusarai in Complaint Case No.1841 of 2016 whereby cognizance of offence under Section 420 and 34 of the IPC has been taken, is hereby quashed.

(Satyavrat Verma, J)

Prakash Narayan

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