

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 39353 of 2016

Arising Out of PS. Case No.-680 Year-2008 Thana- BUXAR COMPLAINT CASE District-
Buxar

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1. Paras Nath Pandey, S/o Jagarnath Pandey
 2. Kalawati Devi, W/o Paras Nath Pandey, Both resident of Village-Balmikpur, P.S.-Dhansoi, District-Buxar. At Present resident of Babanagar Buxar, P.S.-Buxar Town, District-Buxar
 3. Tej Narayan Singh, son of Dhanushdhari Singh, resident of Village-Shampur, P.S.- Dhansoi, District-Buxar

... .. Petitioner/s

Versus

1. State Of Bihar
2. Suryanath Singh, son of Late Basgit Singh Resident of Village-Simariya, P.S.- Dhansoi, District-Buxar. At Present resident of Village- Shivpuri, Budhanpurba Buxar, P.S.-Buxar Town, District-Buxar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bachan Jee Ojha, Adv.
For the State	:	Mr. Umeshnand Pandit, APP
For the O.P. No. 2	:	Mr. Dr. Kamal Deo Sharma, Adv. Mr. Tushar Vaibhav, Adv.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

15 18-03-2025 Heard Mr. Bachan Jee Ojha, learned counsel for the petitioners, Mr. Umeshnand Pandit, learned APP for the State and Mr. Dr. Kamal Deo Sharma, learned counsel for the O.P. No. 2.

2. The instant petition has been filed under section 482 of the Code of Criminal Procedure (in short 'Cr.P.C.') with a prayer to quash the order dated 10.06.2010 passed by the learned Judicial Magistrate, 1st Class, Buxar in Complaint Case No. 680(C)/2008, Tr. No. 1155/2009, whereby the learned



Magistrate has taken cognizance of the offence under section 418 of the Indian Penal Code (in short 'IPC') against the petitioners.

3. The main ground taken by the petitioners' counsel to assail the order impugned are that from the bare perusal of the facts of the complaint filed by the O.P. No. 2, it is evident that the main grievance of the O.P. No. 2 was of not getting the possession over the entire sold land and he was given possession over the land having an area of 1.76 acres while as per the sale deed, 2.64 acres of land was transferred to him by the petitioner No. 2 through a registered sale deed and the said grievance mainly attracts a civil wrong on the part of the petitioner No. 2 and the execution of the sale deed by petitioner No. 2 in favour of the O.P. No. 2 is an admitted position. Learned counsel submits that there is no allegation against the petitioner No. 3 and he is simply alleged to have remained involved in the alleged occurrence of cheating as being persuader and except this, there is no allegation against him and further, the O.P. No. 2 has filed a Money Suit bearing Case No. 7/2009 to recover the part of the consideration amount relating to his sale deed in respect of the land of which possession has not been given to him by the petitioner No. 2.



4. On the other hand, Mr. Dr. Kamal Deo Sharma, learned counsel appearing for the O.P. No. 2 has vehemently opposed this petition and submits that the learned Judicial Magistrate has rightly taken cognizance of the offence under section 418 of IPC, as from the beginning of the transaction between the petitioner No. 2 and the O.P. No. 2, there was dishonest intention on the part of the petitioner No. 2 as well as other petitioners as admittedly there was a civil suit in between the father of the petitioner Nos. 1 & petitioner No. 2 and uncle of petitioner No. 1 and in this regard, the copy of the plaint relating to the said Civil Suit has been filed by the petitioners by way of supplementary affidavit and the same may be perused. Further, the dishonest intention on the part of the petitioner Nos. 1 and 2 is evident from this fact that the O.P. No. 2 did not get possession over the entire sold land and the factum of pendency of the civil suit in between the petitioner No. 2 and uncle of petitioner No. 1 in connection with the land in question was not disclosed to the O.P. No. 2 intentionally, in order to cheat him as well as others.

5. Heard both the sides and perused the order impugned and other relevant materials. It is an admitted position that when the petitioner No. 2 transferred the land in question in



favour of the O.P. No. 2, there was a civil litigation filed by the uncle of the petitioner No. 1 against the petitioner No. 2 and her father-in-law and further, the father-in-law of the petitioner No. 2 is said to have gifted the land in question in favour of the petitioner No. 2 that was challenged in the said civil litigation and during the pendency of the same, the petitioner No. 3 persuaded the O.P. No. 2 to purchase the land in question and kept him in the dark regarding the pendency of the civil litigation and after the execution of the sale deed, the O.P. No. 2 was not given the possession over the entire sold land and these facts are sufficient to *prima facie* show the dishonest intention on the part of the petitioner No. 2 to cause wrongful loss to the O.P. No. 2 at the time of execution of the sale deed and in that act, the petitioner Nos. 1 and 3 were also involved as per allegation, so, the learned trial court has rightly taken cognizance of the offence of cheating against the petitioners and there is no merit in this petition, hence, the instant petition stands dismissed.

(Shailendra Singh, J)

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