

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64043 of 2025

Arising Out of PS. Case No.-857 Year-2023 Thana- SONEPUR District- Saran

Dilip Mahato @ Dilip Kumar Mahto S/O Late Maheshwar Mahto R/O Vill-
Shikarpur, P.O - Shikarpur, P.S- Sonpur, Distt.- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kalpu Sah W/O Shankar Sah R/O Village and P.O- Shikarpur, P.S- Sonpur,
Distt.- Saran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Rajeev Ranjan Sinha, Advocate
For the Opposite Party/s	:	Mr.Shailendra Kumar, APP
For OP No.2	:	Mr.Vijay Kumar Srivastava, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 14-10-2025 Heard learned counsel appearing on behalf of the

petitioner; learned APP for the State and the learned counsel for

the O.P.No.2.

2. The dispute relates to the land, which the petitioner
had allegedly agreed to sale to the complainant/OP No.2 and the
agreement was executed. Pursuant to which, O.P.No.2 had paid
Rs. 2.50 lac to the petitioner. As the land was not registered, the
O.P. No.2 had filed a complaint case against the petitioner. The
learned Magistrate directed for police investigation, vide order
dated 19.08.2023, leading to registering Sonepur P.S.Case
No.857 of 2023. The petitioner sought for pre-arrest bail by
filing Criminal Misc. No.2160 of 2024 and at the time of
hearing of the bail application, the petitioner had offered that he



will refund the alleged amount amounting to Rs.2.50 lac to the complainant (OP No.2). The order was passed on 07.03.2024 by granting pre-arrest bail to the petitioner.

3. Learned counsel appearing on behalf of the petitioner informs that the petitioner has already deposited a cheque amounting to Rs.2.50 lac before the learned district court abiding by the terms and conditions of the bail and order passed by this Court, therefore, further proceeding will be abuse of process of law.

4. Learned counsel in support of his contention submitted that in the light of the law laid down by the Apex Court in the case of **Radheshyam & Ors. vs. The State of Rajasthan & Anr.** passed in **Cr. Appeal No.3020 of 2024** and also in the light of law laid down in the case of **Om Prakash Ambadkar Vs. The State of Maharashtra & Ors.** reported in **(2025) SC 260** and in absence of any ingredients of Sections 420 and 406 of the Indian Penal Code, no case is made out against the petitioner. He further contended that in both the cases, the Apex Court has concluded that the allegations under Section 420 and 406 of the IPC can not go side by side. On these grounds, learned counsel submitted that the allegation constituting FIR must be quashed by this Court without entering



into the process.

5. *Per contra*, Mr. Vijay Kumar Srivastava, learned counsel appearing on behalf of O.P. No.2/complainant submitted that the dispute purely being civil in nature. He further informs that the land in question has already been acquired by the Patna Metro Project and the petitioner has also received the compensation amount in respect of the said land, which was the subject matter of the agreement to sale. Learned counsel also informed that the complainant is aggrieved for non-payment of Rs.2.50 lac, which has been deposited in the learned district court in compliance of order dated 07.03.2024 passed in Criminal Misc. No.2160 of 2024. He seeks that the same be handed over to the complainant.

6. Considering the information that the petitioner has already deposited a sum of Rs.2.50 lac in compliance of order dated 07.03.2024 passed in Cr. Misc. No.2160 of 2024 before the learned trial court and the land in question has already been acquired by the Patna Metro, the criminal prosecution pending against the petitioner if allowed to proceed for offense alleged under Sections 420 and 406 of the IPC will only amount to abuse of process of Court. The law laid down in the case of **Radheshyam (supra)** on merits equally covers the present case.



In view of the facts and circumstances and discussions made hereinabove, the entire proceeding pending in the court of the learned Judicial Magistrate in connection with Sonepur PS Case No.857 of 2023 arising out of GR No.8275 of 2023 is hereby set aside and quashed.

7. The learned district court is directed to hand over the amount of Rs.2.50 lac, which has been paid by the petitioner by way of cheque by the complainant/OP No.2 back to him, subject to production of the original agreement, which has been entered between the parties on 10.09.2016.

8. The present application stands disposed of.

(Purnendu Singh, J)

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