

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5330 of 2024

Arising Out of PS. Case No.-73 Year-2022 Thana- NALANDA COMPLAINT CASE
District- Nalanda

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Naved Zahir Son of Late Mohammad Abdus Zahir Resident Of Present
Address At B 206, Aparna Complex, Opposite St Michaels High School,
Digha, Patna, Permanent Address At Village Shakrawan, Ps- Asthawan, Dist-
Nalanda

... .. Appellant/s

Versus

1. The State Of Bihar
2. Nande Paswan Son of Prabhu Paswan R/O Vill.- Maksudpur, P.S.-
Asthawan, Dist.- Nalanda.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Majid Mahboob Khan, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

03 13-02-2025 Heard Mr. Majid Mahboob Khan, learned counsel

for the appellant and Mr. Binay Krishna, Spl. P.P.

2. The present appeal has been preferred:

*“for quashing of the cognizance
order dated 08.08.2024 passed by the
learned Additional Sessions Judge-VI-cum-
Special Court, SC/ST Court, Nalanda at
Biharshariff, in Special (SC/ST) Complaint
Case No. 73 of 2022, arising out of
Complaint Case No. 73C of 2022, whereby
and whereunder the learned court below has
held that a prima facie case u/s 406, 420 of
the Indian Penal code and section 3(2)(va)
of SC/ST Act is made out and accordingly*



the cognizance for the aforesaid offence has been taken and summon has been issued against the accused persons including the present appellant.”

3. The prosecution story is/are that the respondent no. 02 wanted a piece of land at Nalanda and for which, an agreement was executed between him and the appellant in the year 2015. Pursuant thereto, certain payments were made, the appellant chose not to execute the sale-deed despite request and in continuation of that, it has been alleged that in the year, 2022 when he asked the appellant to take the rest of amount and execute the sale-deed, not only he refused to execute the same, he was also abused by taking caste name. The complainant wanted to get his money back, the same was also not returned. Having been abused and felt cheated, the case.

4. The complainant and the witnesses were examined where after cognizance was taken in the matter on 08.08.2024 by the concerned Court in Complaint Case No. 73/2022.

5. Aggrieved, the present appeal.

6. It is the case of the appellant that the complainant is acting at the behest of one Surendra Kumar. On the complaint, the same was executed in favour of Surendra Kumar wife's Pushpa Kumari for which an advance has been taken by him



from Surendra Kumar.

7. Further, there was a dispute between complainant and Surendra Kumar with regard to the commission and when the complainant failed to get the commission, the present case. He submits that now lots of water has flown down the Ganges, still whatever amount of the complainant is with the appellant, he is ready to return the amount (Rs. 1,13,000/-) but unnecessary this Damocles Sword has been hanging over him after cognizance has been taken in the matter on 08.08.2024.

8. learned Spl.P.P. on the other hand opposes the prayer submitting that prima facie, the case is made out and in that background, the Court concerned rightly took cognizance in the matter. He submits that now the good sense has prevailed upon the appellant and he wants to return the amount, he will have the option to do so by filing in appropriate petition before the concerned Court. He further submits that whether it is (Rs. One Lakh Thirteen Thousand) or something else, it is for the complainant and the appellant to decide.

9. Having gone through the facts of the case and submissions of the parties as also perusal of the FIR/cognizance order dated 08.08.2024, this Court is in conformity with the submissions of the learned Spl. P.P. A case is made out and as



such, the Court has rightly taken cognizance in the matter.

10. However, now that the appellant wants to return the amount, it is for them to sit on a negotiating table to do the needful and further will have the liberty to prefer appropriate petition before the concerned Court.

11. Accordingly, the Court is not inclined to interfere with the cognizance order dated 08.08.2024. However, as the learned counsel wants the appeal to be disposed of, it is accordingly recorded.

12. The appeal stands disposed of.

(Rajiv Roy, J)

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