IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22269 of 2023

Arising Out of PS. Case No.-1552 Year-2022 Thana- PHULWARISHARIF District- Patna

==

Qumrul Hoda @ Quamrul Hoda Son Of Mohibbul Hassan Resident Of House No. 26, Village Aunsi, Babhangama, Ps- Bisfi, Distt- Madhubani At Present Residing At Flat No. A01, 2nd Floor, The Crescent Apartment, Ali Nagar, Ps- Gardanibagh, Distt- Patna

... ... Petitioner/s

Versus

1. The State of Bihar
2. Sultan Ahmad Khan Son Of Late Dr. Gulam Rasul Khan Resident Of Dumduma, Ps- Laheriasarai, Distt- Darbhanga

... ... Opposite Party/s

==

Appearance :

For the Petitioner/s	:	Mr. Rajesh Ranjan, Adv.
For the Opposite Party No.2/ informant	:	Shri Najib Ahmad, APP

==

CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL JUDGMENT

Date : 22-06-2026

This is an application under Section 482 of the Code of Criminal Procedure for quashing of First Information Report registered as Phulwari Sharif P.S. Case No. 1552/2022 under Sections 406, 420, 467 and 468 of the Indian Penal Code, pending before the learned Additional Chief Judicial Magistrate XIV, Patna.

2. The petitioner is eighty years old.

3. That the prosecution story, in brief, is this. O.P. No. 2 owns a residential property at Harun Nagar, Sector-2, Patna. In the first week of January 2020, he approached the son of the petitioner, Md. Manjar Nadeem, for sale of this property for Rs.

1,70,00,000. An agreement for sale was executed on 04.01.2020. A cheque bearing No. 311548 dated 04.01.2020 for Rs. 10,00,000 was paid on the same date. This is what Annexure-2, the agreement for sale itself, records. Further amounts were transferred by RTGS on 15.06.2020, 16.06.2020, 17.06.2020 and 05.10.2020. By 05.10.2020, a total of Rs. 40,00,000 had been paid. Part of this amount went into the account of O.P. No. 2 directly. Rs. 4,99,900 was transferred to the account of his daughter, Moina Kahkashan, on his own instruction.

4. On 05.11.2021, O.P. No. 2 himself asked for a second agreement. Annexure-3 is this agreement. It records receipt of Rs. 40,00,000. It obligated O.P. No. 2 to execute the registered sale deed within eleven months on receipt of the balance. He also undertook to provide all title documents. O.P. No. 2 then applied to the Haroon Nagar Co-operative House Construction Society Ltd. for a No Objection Certificate. The application was his own. The affidavit accompanying it bore his signature. The Society issued the NOC on 03.08.2022. On 06.08.2022, a home loan of Rs. 1,30,00,000 was sanctioned by ICICI Bank in the name of the purchasers. The bank's condition was that the loan amount would be credited to the account of O.P. No. 2 at the time of registration.

5. That O.P. No. 2 still did not execute the sale deed. A legal notice was sent on 02.09.2022. Even after the notice, Rs. 2,00,000 was deposited in his account on his demand. He did not respond. Title Suit No. 450/2022 was filed before the learned Sub-Judge I, Patna on 19.09.2022. Summons was issued against O.P. No. 2. Three months after the civil suit was filed, on 15.12.2022, O.P. No. 2 lodged the present FIR. He alleged that the agreement for sale was forged, that the NOC was obtained without his consent, and that the accused persons had conspired to grab his property.

6. The Annexures tell a different story.

7. Annexure-2 is the agreement for sale dated 04.01.2020. It bears the signature of O.P. No. 2 as vendor. The cheque number mentioned in this agreement is 311548. The FIR itself records receipt of this very cheque. O.P. No. 2 cannot claim the agreement is forged and in the same breath acknowledge the cheque paid pursuant to it.

8. That Annexure-3 is the second agreement dated 05.11.2021. O.P. No. 2 has signed this document also. It records in terms that Rs. 40,00,000 had already been received. The argument that the entire transaction is fabricated cannot survive these two documents, both bearing the signature of O.P. No. 2 himself.

9. Annexure-1 is the certified copy of the FIR. The written report of O.P. No. 2 alleges that a forged affidavit was used to procure the NOC from the Co-operative Society. The affidavit placed before the Society is on record as part of Annexure-1. It bears the signature of Sultan Ahmad Khan, who is none other than O.P. No. 2. The NOC, a copy of which is also on record, states expressly that it was issued on the application and affidavit of Sultan Ahmad Khan dated 01.08.2022. That O.P. No. 2 filed a sworn affidavit before a co-operative society seeking transfer of his own property and then alleged in an FIR that the very same NOC was obtained by forgery is a proposition that cannot be accepted.

10. The most telling document is Annexure-5. This is the plaint of Title Suit No. 463/2022 filed by O.P. No. 2 himself before the learned Sub-Judge I, Darbhanga, before he lodged the present FIR. In paragraph 9 of that plaint, O.P. No. 2 admits receipt of Rs. 30,00,000 in his bank account and Rs. 10,00,000 in the account of his daughter from the son of the petitioner. In that same plaint he states that he handed over possession of the house to Md. Manjar Nadeem. In the FIR he says the entire transaction is forged and fabricated. These two positions cannot coexist. The informant has suppressed the Darbhanga suit entirely while lodging the present FIR.

11. That both parties are now before civil courts. Title Suit No. 450/2022 is pending before the learned Sub-Judge I, Patna. Title Suit No. 463/2022 is pending before the learned Sub-Judge I, Darbhanga. The civil courts are seized of the dispute from both sides. The dispute is, at its core, a property transaction where the vendor will not execute the sale deed after receiving Rs. 40,00,000 of the agreed consideration. That is a civil dispute. Nothing more.

12. That the Supreme Court in **Indian Oil Corporation Ltd. v. NEPC India Ltd. & Ors., (2006) 6 SCC 736**, observed in paragraph 10 as follows:

> *"While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable break down of*

marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged."

13. That in the very same paragraph 10, the Supreme Court quoted with approval the observations in G. Sagar Suri v. State of U.P., (2000) 2 SCC 636:

"It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter."

14. That the present case is a faithful illustration of what the Supreme Court deprecated in paragraph 10 of the Indian Oil Corporation. A civil dispute over a property transaction, already pending adjudication before two civil courts, has been given the cloak of criminal proceedings. The FIR was lodged three months after the civil suit was filed against O.P. No. 2. The timing is not coincidental.

15. That no specific overt act is attributed to the petitioner personally in the FIR. He is eighty years old. He was inducted as a co-purchaser under the second agreement dated 05.11.2021. The allegations against him are vague and omnibus. Even accepting every word of the FIR at face value, no independent criminal role is disclosed against him.

16. That Shri Najib Ahmad, learned counsel appearing for the informant, raised two submissions. First, he submitted that the dispute involves questions of fact which cannot be gone into in a petition under Section 482 of the Code. The genuineness of the agreements, the signatures of O.P. No. 2, the manner in which the NOC was obtained — all these, he urged, are matters for trial. This Court, he submitted, cannot conduct a mini-trial at the threshold. Second, he submitted that the ingredients of Section 467 of the Indian Penal Code are squarely made out. The affidavit placed before the Co-operative Society, he argued, was not executed by O.P. No. 2. It was a forged document used to procure the NOC. Obtaining a housing loan on the basis of a forged NOC is a serious offence. The petitioner, being a co-purchaser and the father of the principal accused, was a party to this conspiracy. The FIR discloses a cognizable offence and deserves to be investigated, he submitted.

17. That Shri Rajesh Ranjan, learned counsel appearing for the petitioner, submitted that the documents annexed to the petition are sufficient to demonstrate, without any inquiry into disputed facts, that the FIR is an abuse of the process. He submitted that the very documents filed by O.P. No. 2 in the civil courts give the lie to the case set up in the FIR. No disputed question of fact need be examined. The contradictions are apparent on the face of the record.

18. That the submission of Shri Najib Ahmad that disputed questions of fact cannot be gone into deserves consideration first. The proposition, as a general principle, is unexceptionable. But the documents relied upon by Shri Rajesh Ranjan are not disputed documents. They are documents filed by O.P. No. 2 himself — in his own plaint before the Sub-Judge I, Darbhanga, in his own written report to the police, and in his own affidavit before the Co-operative Society. No disputed question of fact arises when the informant's own documents contradict his own FIR. The principle against conducting a mini-trial has no application here. The contradiction is self-generated.

19. That the second submission of Shri Najib Ahmad regarding Section 467 fares no better. The NOC dated 03.08.2022 issued by the Haroon Nagar Co-operative House Construction

Society Ltd. states on its face that it was issued on the application and affidavit of Sultan Ahmad Khan dated 01.08.2022. This affidavit is on record as part of Annexure-1. It bears the signature of O.P. No. 2. O.P. No. 2 is Sultan Ahmad Khan. The submission that the affidavit was forged is thus a submission made by a person against his own signature on a document filed before a statutory body. It does not withstand scrutiny. As for the petitioner’s role in the alleged forgery, the FIR contains no specific allegation against him. Shri Najib Ahmad could point to none. Vague and general allegations of conspiracy, without attribution of any specific act, do not constitute sufficient basis for dragging an eighty-year-old man through a criminal trial.

20. The petition is allowed. The First Information Report registered as Phulwari Sharif P.S. Case No. 1552/2022 under Sections 406, 420, 467 and 468 of the Indian Penal Code and all proceedings arising therefrom are quashed insofar as the petitioner is concerned.

(Ansul, J)

Vikash/-

AFR/NAFR	
CAV DATE	N/A
Uploading Date	
Transmission Date	