

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25042 of 2017

Arising Out of PS. Case No.-1307 Year-2014 Thana- ROHTAS COMPLAINT CASE
District- Rohtas

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Krishna Mani Devi Wife of Late Deena Nath Pandey, R/o Mohalla- Chhawani
More, Ward No.- 13, N.H. 30, Dinara Road, Kochas, P.S.- Kochas, District-
Rohtas.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Dilip Kumar Keshri, S/o Shri Chote Lal Keshri, At+ P.O.+ Village- Kochas,
P.S.- Kochas, District- Rohtas.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Ravindra Kumar, Adv.
For the State	:	Mr. Rajendra Prasad Nat, APP
For the O.P. No.2	:	Mr. Rajesh Kumar Mishra, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

6 02-02-2026 The instant petition has been filed under section 482
of the Code of Criminal Procedure (in short 'Cr.P.C.') against
the order dated 12.04.2016 passed by the learned Additional
Chief Judicial Magistrate, Sasaram in Complaint Case No. 1307
of 2014 whereby cognizance of the offences punishable under
sections 406 and 420 of the Indian Penal Code (in short 'IPC')
has been taken and the petitioner has been summoned for the
said offences. By way of this application, the petitioner has
prayed for quashing of the cognizance order.

2. Mr. Ravindra Kumar, learned counsel for the
petitioner, submits that as per the prosecution story, the brother



of the complainant and petitioner entered into a civil transaction for transfer of land. It was agreed that son of the petitioner would transfer a particular piece of land after receiving the consideration money but in this regard, the complainant (O. P. No.2) did not reveal the details of the said land and as per the allegation, Rs. 9,60,000/- was paid by different transactions but also in this regard, no sufficient evidence was given during the course of enquiry. Regarding the payment of Rs. 9,60,000/-, the averments made in the complaint petition as well as the statements of the enquiry witnesses including the complainant himself are completely vague. In the entire complaint petition as well as in the statements of the enquiry witnesses, the details of the land which was agreed to be transferred is completely remained vague. In fact before filing of the complaint petition on 23.11.2014 an FIR was lodged by the petitioner against the brother of the O.P. No.2 for the offences punishable under different sections of the Arms Act and under sections 452, 307 and 308 of the IPC and in the said occurrence related to that matter, firearm was used while committing attempt to murder which was recovered by the prosecution party after the accused fled away and the same was produced before the police and regarding that, seizure memo was also prepared of which copy



has been filed and for creating pressure upon the petitioner, the O.P. No.2 has filed the complaint with malafide intention. It is lastly submitted that regarding the payment of alleged amount of Rs. 9,60,000/-, the complainant stated before the trial court when question was asked that he would produce documentary proof with regard to the said payment but even in further proceeding of enquiry, no attempt was made by the O.P. No.2 for producing the said documentary evidence.

3. Learned counsel for the O.P. No. 2 has vehemently opposed this application and submits that there is sufficient material to show the petitioner's involvement in the alleged offences of which cognizance has been taken and so far as the proof of the payment of the alleged amount of Rs. 9,60,000/- is concerned, in this regard, sufficient ocular evidence was given before the trial court for proving the alleged transactions and during the course of trial, sufficient documentary proof would be produced.

4. After having heard both the sides and taking into account the aforesaid submissions, this court finds that the prosecution initiated against the petitioner by way of complaint filed by the O.P. No.2 is completely malacious and the said complaint was filed only after lodging the FIR by the petitioner



against the brother of the O.P. No.2 and with regard to the alleged transaction, the complainant's allegations are completely vague regarding the details of the land as well as the mode of payment and further the complainant as well as his enquiry witnesses failed to produce any documentary evidence during the course of enquiry despite the complainant's statement that the same would be produced, so, subjecting the petitioner to the trial for the alleged offences of which cognizance has been taken would completely be an abuse of the process of the court as such, the impugned order taking cognizance of the alleged offences and further proceeding having arisen and started against the petitioner in the light of the said cognizance order are hereby quashed and the instant petition stands allowed.

(Shailendra Singh, J)

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