

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47720 of 2018

Arising Out of PS. Case No.-1091 Year-2015 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Sushila Devi @ Shoshila Devi and Anr W/o Shambhu Yadav,
 2. Shambhu Yadav S/o Late Sahran Chaudhary, Both Muffasil , District-
Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Gopal Singh, S/o Late Yamuna Prasad Singh, R/o Mohalla- Mahmadpur
Karji, P.S.- Phulwarisharif, District- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verms, Senior Advocate Mr. Anuj Kumar, Advocate
For the Opposite Party/s	:	Dr. Mrityunjaya Kr. Gautam, APP

CORAM: HONOURABLE MR. JUSTICE PRAVEEN KUMAR
ORAL ORDER

11 28-07-2026 Heard learned senior counsel for the petitioners and

learned counsel for the State. None appears on behalf of

Opposite Party No.2.

2. Although, by order dated 12.02.2026, a Co-ordinate

Bench of this Court has observed that vide office notes, it
appears that the Opposite Party No.2 has already expired,
accordingly no notice is required to be served to him and the
matter was directed to be listed under the heading 'For
Admission'.

3. The petitioners have filed this application for



quashing the order dated 04.09.2015, passed by the Judicial Magistrate, Danapur in Complaint Case No. 1091 of 2015, whereby cognizance has been taken against the petitioners for the offences punishable under Section 420 of the Indian Penal Code.

4. As per the prosecution case, the complainant, Gopal Sharan Singh, agreed to sell his three-storeyed house to the petitioners for a total consideration of Rs. 1,15,00,000/-, an agreement for sale was executed on 31.12.2014, the petitioners initially paid Rs. 61,00,000/- and assured the complainant that the remaining amount would be paid at the time of execution of the sale deed. Relying on this assurance, the complainant executed the sale deed on 05.02.2015, after petitioner no.1 (Sushila Devi @ Shoshila Devi) handed over a cheque of Rs. 46,00,000/- towards the balance consideration. When the complainant presented the cheque on 10.06.2015, it was dishonoured because his name was incorrectly mentioned on the cheque and despite legal notice, the petitioners failed to pay the balance amount. It is further alleged that the petitioners intentionally issued the cheque with the wrong name with dishonest intention and induced the complainant to execute the sale deed without paying the full consideration amount, thereby



cheated him by fraud.

5. Learned counsel for the petitioners has submitted that it is not the case that the sale deed was not executed, rather the sale deed came to be executed and, thereafter, the allegation has been leveled that a cheque was given without date with wrong signature and hence the same could not be encashed. Learned senior counsel for the petitioners has drawn the attention of this Court to the narrations in the sale deed, wherein it has been stated that sale deed is being executed when all the consideration money has been received. Learned senior counsel for the petitioners has further submitted that till date, no title suit has been filed for cancellation of the sale deed and since the sale deed is a registered one, there would be a presumption of genuineness unless rebutted by way of filing title suit and leading evidence in this regard. Learned senior counsel for the petitioners has further submitted that the dispute, if any, is civil in nature and purposely a criminal case has been filed in order to blackmail and to put pressure out of personal vendetta and to spite personal score. It has further been submitted that the allegation are vexatious and malicious in nature. It has further been submitted that the case of the petitioners falls under several categories as held in the judgment of the Hon'ble Supreme



Court in the case of **State of Haryana versus Bhajanlal**, reported in *1992 Supplementary (1) SCC Page 335*. It has further been submitted that none of the ingredients of Section 420 of the IPC are made out and the learned Magistrate without applying judicial mind has taken cognizance against the petitioners in a mechanical manner.

6. Learned counsel for the State opposed the prayer of the petitioners.

7. Heard the learned counsel for the parties and perused the records.

8. From the records, it is clear that the sale deed has been executed by the complainant after taking the entire consideration money before its execution and the same fact has been testified in the sale deed itself, no mode of payment has been discussed and if the cheque would have been given, the same would have been mentioned in the sale deed itself. It is highly improbable that the person would execute the sale deed without receiving the full consideration money, the allegation against the petitioners appears to be a civil one for which the appropriate remedy was to file a civil suit before the Competent Court of civil jurisdiction. In view of such, the order taking cognizance dated 04.09.2015 passed by the Judicial Magistrate, Danapur is



hereby quashed.

9. The application stands allowed.

(Praveen Kumar, J)

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