

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40306 of 2021

Arising Out of PS. Case No.-510 Year-2020 Thana- SAHARSA SADAR District- Saharsa

1. PURAN BHAGAT S/o Late Baiddnath Bhagat R/o Masomat Pokhar, North of Radha Krishna Mandir Road, Ward No. 07, P.S. Saharsa and District - Saharsa.
2. Ajeet Kumar S/O Sri Puran Bhagat R/o Masomat Pokhar, North of Radha Krishna Mandir Road, Ward No. 07, P.S. Saharsa and District - Saharsa.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR Bihar
2. ASHOK KUMAR GUPTA S/o Late Baleshwar Prasad Gupta R/o Kapdapatti, Ward No.20, Within Nagar Parishar, P.S. and Dist. - Saharsa.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Dinkar Kumar
		Mr.Ajit Kumar
For the Opposite Party/s :		Mr.Uday Pratap Singh

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 02-02-2026 Heard the parties including the learned counsel for the informant.

2. This application has been filed on behalf of the petitioners for quashing the FIR bearing Saharsa P.S. Case No. 510 of 2020 registered for the offence under Sections 406, 420, 384, 34 of the Indian Penal Code.

3. As per the prosecution case, it has been alleged by the informant that he entered into an agreement for sale for a land admeasuring 1.45 Decimal for a consideration of Rs.



11,05,500/-. The informant has paid an advance of Rs. 11,000/- and the petitioners had signed the said agreement to sale and the same was done in present of the witness namely Santosh Kumar. The informant has alleged that on different dates, money was transferred to the land-lord by way of bank drafts, cheques and by cash but when the informant requested for execution of sale deed, the petitioner no. 1 denied the same by saying that his son / Petitioner No. 2 is sick, and assured that after two months he will execute the sale deed but the same has not been done by the petitioners. Thereafter, on 05/01/2020, mediation was done by the present Ward Member and other persons in which the petitioners agreed to execute the sale deed as and when informant wish when the informant asked for executing sale deed then both petitioners pointing pistol upon him, threatened him that they don't know about the fact of payment of money and they also threatened the informant to kill him.

4. The learned counsel for the petitioner submits that the petitioners are innocent and they have falsely been implicated in this case as from perusal of the FIR it appears that present dispute relates to execution of sale deed with respect to land in question on the basis of agreement between the parties for which the legal has legal remedy to file a title suit before the



competent civil court for specific performance of contract.

5. The learned counsel for the petitioner further submits that in view of the fact that matter relates to civil dispute for execution of sale deed, no offence is made out under section 406, 420 and 384/34 of the I.P.C. therefore the prosecution against the petitioners is an abuse of the process of law.

6. The learned counsel for the petitioner further submits that in view of the aforesaid fact and circumstances, it is crystal clear that present prosecution has been filed with malafide intention in order to harass and humiliate the petitioners.

7. The learned counsel for the State and the learned counsel for the O.P. No. 2 have opposed the prayer of the petitioner.

8. I have considered the submissions of the parties and perused the materials on record.

9. It would be apposite to refer to a judgment of the Hon'ble Three Judge Bench of the Hon'ble Supreme Court in the case of ***Murari Lal Gupta Vs. Gopi Singh [(2005) 13 SCC 699]***, wherein the Hon'ble Court had held as under:-

“...Having taken into consideration all the materials made available on record by the parties and after hearing the learned counsel for the parties, we are



satisfied that the criminal proceedings initiated by the respondent against the petitioner are wholly unwarranted. The complaint is an abuse of the process of the court and the proceedings are, therefore, liable to be quashed. Even if all the averments made in the complaint are taken to be correct, yet the case for prosecution under Section 420 or Section 406 of the Penal Code is not made out. The complaint does not make any averment so as to infer any fraudulent or dishonest inducement having been made by the petitioner pursuant to which the respondent parted with the money. It is not the case of the respondent that the petitioner does not have the property or that the petitioner was not competent to enter into an agreement to sell or could not have transferred title in the property to the respondent. Merely because an agreement to sell was entered into which agreement the petitioner failed to honour, it cannot be said that the petitioner has cheated the respondent. No case for prosecution under Section 420 or Section 406 IPC is made out even prima facie. ..."

10. Having regard to the facts and circumstances of the present case and taking into consideration the ratio laid down by the Supreme Court in the decisions quoted hereinabove, in my opinion, it is a case of pure and simple breach of contract and the dispute is essentially a civil dispute and the criminal case is, therefore, bad in law. From the perusal of the records, it appears that the present prosecution has been filed with mala fide intention only to wreak vengeance.

11. In view of the above, this application is allowed and accordingly, the FIR bearing Saharsa Sadar P.S. Case No. 510 of 2020 and all consequential proceedings arising out of the



same, are hereby quashed.

(Sandeep Kumar, J)

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