

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.33799 of 2023**

Arising out of PS. Case No.-153 Year-2022 Thana- PATNA COMPLAINT CASE District-  
Patna

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Pramod Kumar Pandey S/o Late Amarnath Pandey R/o B 28/52, Manas  
Mandir Ghasiyari Tola Durga Kund, P.S- Bhelpur, Distt.- Varanasi.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ravi Kant Tiwari S/o Banarsi Tiwari R/o- C/o Ramjeet Singh Salimpur  
Aarah Road No. 01, P.S- Gandhi Maidan, P.O- Kadamkuan, Distt.- Patna.

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Mohit Raj, Adv.

For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

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**CORAM: HONOURABLE MR. JUSTICE ANSUL**

**CAV JUDGMENT**

**Date : 21-07-2026**

The petitioner has challenged the cognizance order dated 07.07.2022 passed by the learned Additional Chief Judicial Magistrate, IXth, 1st Class, Patna in Complaint Case No. 153(C) of 2022, where cognizance has been taken under Section 406 IPC against Pramod Kumar Pandey.

2. The complaint was filed by Ravi Kant Tiwari. The prominent allegation against Pramod Kumar Pandey is that he was a lawyer practicing at Varanasi, and he showed the land to the complainant at Varanasi. The petitioner introduced the complainant to Ram Navmi Mishra, accused no. 2, the landowner, who stated that he was willing to sell the land. The complainant says that he paid Rs. 25,18,000 to the petitioner, and out of that,



Rs. 23,00,000 was paid in cash, whereas Rs. 2,18,000 was paid to Pratima Singh, wife of one of the inquiry witnesses, who took it out and gave it to the petitioner. Thereafter, he says that the Power of Attorney was executed by landowner Ram Navmi Mishra in favour of one Shailendra Dubey, which showed that the land was disputed. Inquiry witnesses deposed and finally cognizance was taken under Section 406 IPC.

3. The counsel for the petitioner submits that the petitioner is an advocate of about 15 years standing in Varanasi court and is enrolled with the Bar Council of Uttar Pradesh. He states that the petitioner is an advocate of Ram Navmi Mishra in title suit no. 1422 of 2019 pending before the Civil Judge. He states that the petitioner is neither the owner of the land nor a relative of the owner. He has signed no agreement with the complainant. He further states that on 02.08.2021, the complainant Ravi Kant Tiwari met the petitioner and asked him to withdraw the title suit, and on refusal, the instant case was filed. The petitioner was attacked. He filed a case at Varanasi being FIR No. 407 of 2021 at Keta P.S. against Ravi Kant Tiwari. The Varanasi Bar Association also lodged information with regard to the same.

4. The petitioner clearly states that he has not entered into any written instrument. The transactions are all said to have



been in cash with no objective material to support the transactions. The other transaction of Rs. 2,18,000 is claimed to be through an inquiry witness, which also has nothing to do with the petitioner. The complaint was filed much after the petitioner lodged FIR No. 407 of 2021, and moreover, the entire dispute is civil in nature.

5. First, the petitioner is the advocate of Ram Navmi Mishra in title suit no. 1422 of 2019. Second, the petitioner was the first to lodge the FIR against the complainant. Third, the Varanasi Bar Association also made a report against the complainant. Fourth, there is no objective material corroborating the transaction of the petitioner having received a single rupee. Fifth, the bank transaction of Rs. 2,18,000 is also doubtful, as the same has been made in the account of the wife of one of the inquiry witnesses, who claims to have given it to the petitioner. The dispute seems to be with regard to the land of Ram Navmi Mishra.

6. No suit for specific performance has been filed by the complainant for the house. No other litigation has been initiated except the instant case. If the case is that the money has been given and the house is not being given to the complainant, the proper remedy was a civil suit, preceded by a legal notice. But nothing of that sort has been done, and recourse has been taken to criminal



law, when the dispute essentially seems to be under civil law. This is what has been deprecated in the case of **Indian Oil Corporation v. NEPC India Ltd.** reported in (2006) 6 SCC 736.

7. Considering that the dispute is essentially civil, there is no proof of any monetary transaction with the petitioner, the petitioner is not the owner of the house, and also that he is a lawyer who made a complaint against the conduct of the complainant before the authorities much prior to the lodging of the complaint, this application is allowed. The order taking cognizance dated 07.07.2022 passed by the learned Additional Chief Judicial Magistrate, IXth, 1st Class, Patna in Complaint Case No. 153(C) of 2022 is quashed so far as the petitioner is concerned.

(Ansul, J)

Vikash/-

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