

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58085 of 2019

Arising Out of PS. Case No.-82 Year-2015 Thana- MAJORGANJ District- Sitamarhi

OM PRAKASH MAHTO Son of Bhola Mahto Resident of Village - Bela
Sahwajpur, P.S.- Riga, District - Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar
2. Baljit Mahto Son of Late Ramnandan Mahto Resident of Village - Sasaula,
P.S.- Mejarganj (Suppi O.P.), District - Sitamarhi

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Jha, Advocate

For the Opposite Party/s : Mr.Anand Kishore Choudhary, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 20-01-2026 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Despite valid service of notice, O.P. No. 2 has not
appeared.

2. This application has been filed on behalf of the
petitioner for setting aside/quashing the order dated 18.02.2019
by which learned Judicial Magistrate, Sitamarhi rejected the
application filed under Section 239 of Cr.P.C. against the
petitioner in connection with Mejarganj P.S. Case No. 82/2015
(Tr. No. 1839/2017).

3. As per the prosecution case, O.P. No. 2 filed a
complaint in 2015 alleging cheating and criminal breach of



trust. He alleged that after paying Rs. 25 lakhs to the accused for joint purchase of land, the accused avoided executing the sale deed and later tried to dispossess him.

4. Learned counsel for the petitioner submits that from the reading of the FIR, it appears that a civil dispute has been given a colour of criminal case and the sale deed is in the name of the petitioner.

5. The learned counsel for the petitioner has relied upon a judgment of the Hon'ble Supreme Court passed in the case of **State of Haryana & Ors v. Bhajan Lal & Ors, 1992 Supp (1) SCC 335** and has submitted that the present prosecution is a mala-fide one and the same is nothing but an abuse of the process of the court.

6. Per-contra, the learned APP for the State has opposed the application of the petitioner.

7 . The Hon'ble Supreme Court in the case of **Bhajan Lal (Supra)** has held that mala – fide prosecution should not be allowed to continue.

8. On careful examination of the materials available on record, this Court finds that the allegations against the petitioner are mala-fide.

9 . Considering the aforesaid facts and circumstances



of the case and the law laid down by the Hon'ble Supreme Court in the case of **Bhajan Lal** (*supra*) , the application stands allowed.

10 . Accordingly, the order dated 18.02.2019 passed by the learned Judicial Magistrate, Sitamarhi in Mejarganj P.S. Case No. 82/2015 and all the consequential proceedings arising out of the aforesaid case are hereby quashed.

11 . Pending application(s), if any, shall also stand disposed of.

(Sandeep Kumar, J)

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