

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO.2306 OF 2011  
(@ SPECIAL LEAVE PETITION(CRL.)NO.7681 OF 2010)

MAMAN KUMAR AGRAWAL

.....APPELLANT

VERSUS

M/S GUPTA HOMES P.LTD.& ANR

.....RESPONDENTS

O R D E R

1. Leave granted.

2. Heard learned counsel for the parties.

3. This appeal is directed against the judgment and order dated 05.04.2010 passed by the High Court of Judicature at Patna in Criminal Miscellaneous No.39582 of 2009. By the impugned order, the High Court has quashed the orders passed by the learned Judicial Magistrate taking cognizance for the offences punishable under Sections 406 & 420 of the Indian Penal Code.

4. On the last date of hearing, the learned counsel appearing for the appellant had submitted that he was willing to accept a sum of Rs.9,87,000/- with a reasonable interest, if it is paid by the respondents, within a reasonable time.

5. Since the learned counsel appearing for the respondents did not have instructions from his client, we had adjourned the matter last time.

6. Today, learned counsel appearing for the respondents would submit that his clients are willing to refund a sum of Rs.9,87,000/- but without interest.

7. It is an admitted case that the appellant had paid a sum of Rs.9,87,000/- to the respondents towards allotment of a flat and that amount is lying with the respondents right from the year 2006. In our opinion, the respondents ought to have returned the amount paid by the appellant, with interest, from 21.12.2006. In view of the above, we dispose of this appeal and direct the respondents to pay the sum of Rs.9,87,000/- with 12% p.a. interest from 21.12.2006 till the date of actual payment. The respondents are granted two months' time from today to make the payment. If, for any reason, the respondents fail to make the payment, as aforesaid, then the appellant is at liberty to make an appropriate application/petition for modification of our order.

Ordered accordingly.

JUDGMENT

.....J.  
(H.L. DATTU)

.....J.  
(CHANDRAMAULI KR. PRASAD)

NEW DELHI;  
DECEMBER 12, 2011