

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 26303 of 2009

Arising out of P.S. Case No. -0 Year- null Thana -null
District- GAYA

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1. Dayanand Singh, S/o Mathura Singh, Resident of Village-Brahchaita, P.S.-Bajirganj, District-Gaya.
 2. Krishna Bahadur, S/o Late Hira Bahadur, Resident of Village-Manpur, P.S.-Mufassil, District-Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sheo Shankar Prasad, S/o Late Gyani Prasad, Resident of Mohalla-Kharkhura, P.S.-Delha, District-Gaya.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : None.

For the Opposite Party/s: Mr. Acchaibar Singh, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 31-07-2015

No one appears on behalf of the Petitioners.

The Petitioners seek quashing of the order of cognizance dated 28.11.2008 passed by the Judicial Magistrate, 1st Class, Gaya in Complaint Case No. 931 of 2008 (Tr. No. 1299 of 2009).

The case of the Complainant is that his wife had purchased a certain piece of property whereafter she came in possession of the lands which were mutated in her name. However, his wife died issueless and after her death he started looking after the property in course of which he gave the land for developing a brick kiln and thereafter started cultivating wheat. Later he learnt that

some document had been prepared showing that his wife had executed a Power of Attorney on 16.09.1999 even though she had died in 1982. The C.O. refused to give him a copy of the same.

The submission is that the Complainant's wife Geeta Devi had not died but in order to misappropriate her property when he married another lady the Complainant stated declaring that she was dead. His wife had protested on numerous occasions and then executed the Power of Attorney.

On going through the facts of the Complaint Petition mentioned above, I am unable to understand as to how any criminal offence would be made out in the facts of the case.

Hence, the entire proceeding including the order of cognizance dated 28.11.2008 passed by the Judicial Magistrate, 1st Class, Gaya in Complaint Case No. 931 of 2008 (Tr. No. 1299 of 2009) is, hereby, set aside.

The Application stands allowed.

(Anjana Prakash, J.)

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