

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.26045 of 2012

Arising Out of PS.Case No. -129 Year- 2011 Thana Piro District- BHOJPUR

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1. Mun Mahesh Thakur, son of late Bali Thakur, resident of village Nawadih, P.S. Sikarahata, Distt. Bhojpur.
 2. Manju Devi, wife of Anuj Singh, resident of village Chana, P.S. Sikarahata, Distt. Bhojpur.
 3. Ganga Dhar Rai
 4. Prasuram Rai
- Both 3 and 4 are sons of late Kailash Rai, resident of village Jasidih, P.S. Piro, Distt. Bhojpur.
5. Jay Mangal Singh, son of late Ram Janam Singh, resident of village Sikarahata, P.S. Sikarahata, Distt. Bhojpur.
 6. Mohd. Seraz Khan, resident of village Piro, P.S. Piro, Distt. Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Ram Pravesh Thakur, son of late Bali Thakur, resident of village Nawadih, P.S. Sikarahata, Distt. Bhojpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arabind Nath Pandey, Adv.
For the State : Mr. Satyendra Nr. Singh, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 17-04-2015

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of cognizance dated 3.2.2012 by which the Chief Judicial Magistrate, Arrah, has taken cognizance in Piro P.S. Case No. 129 of 2011, G.R. No. 2510 of 2011, Trial No. 298 of 2012.

The case of the Informant is that one Kapil Thakur died issueless who had two brothers, Ram Dayal Thakur and Bali Thakur, both were joint whereas Gahan Thakur another brother was



separate during his life time. Kapil Thakur and Ram Dayal Thakur were also issueless and after the death of Ram Dayal Thakur, his share merged with other two brothers after which a Khangi partition took place between Kapil Thakur and Bali Thakur. The said Bali Thakur executed a deed of gift in share of his nephew Ram Praves Thakur, Mun Mahesh Thakur and their wives who after execution of the deed of gift, came in agricultural possession of the land. However, later on Most. Dularo Kuer, wife of Bodhar Thakur in pressure of his son-in-law, Petitioner No. 5 herein and daughter of Petitioner No. 2, executed a sale deed in favour of the Petitioners No. 3 and 4 through a registered sale deed.

It has been submitted on behalf of the Petitioners that the person who executed the sale deed is now dead and where the Petitioners are concerned, they are daughter and son-in-law of the vendor being witnesses or the bona fide purchasers.

Also there is no material to substantiate the allegation that the documents were fake and fabricated. Even assuming that Most. Dularo Kuer had no authority to sell the lands which did not fall in her share, no criminal offence would be made out as against the present Petitioners.

On the other hand, the counsel for the Informant submits that since the Petitioners were also parties in the sale deed,

they should be prosecuted.

Having gone through the facts of the First Information Report and considered the submissions raised on behalf of the Parties, I would be inclined to hold that in the facts and circumstances, no criminal offence is made out as against the Petitioners.

Hence, the application is allowed and the Proceedings including the order of cognizance dated 3.2.2012 passed by the Chief Judicial Magistrate, Arrah, in Piro P.S. Case No. 129 of 2011, G.R. No. 2510 of 2011, Trial No. 298 of 2012, is hereby set aside.

However, the quashment of the Proceedings shall have no bearing on any other claims.

(Anjana Prakash, J)

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