

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39646 of 2012

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1. Urmila Devi W/O Late Bishundeo Yadav Resident Of Village Hathwan, P.S. Alauli, District Khagaria.
 2. Suresh Yadav S/O Bishundeo Yadav Resident Of Village Hathwan, P.S. Alauli, District Khagaria.
 3. Rajesh Yadav S/O Bindeshwar Yadav Resident Of Village Hathwan, P.S. Alauli, District Khagaria.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Ram Swarup Singh S/O Late Akal Mahto Resident Of Village And P.S. Alauli, District Khagaria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Praveen Kumar Agrawal

For the Opposite Party/s : Mr. Narayan Singh, Sr. Adv. assisted by Sri R. N. Podar & Mr. Renuka Ratnakar (App)

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL ORDER

4 23-04-2015 This application is filed with a prayer to quash the F.I.R. in Khagaria(Chitragupt Nagar) P.S. Case No. 323 of 2012, wherein offences, referred to sections 420, 469, 468, 471 and 120B of the Indian Penal Code, are alleged against the petitioners by the complainant.

2. Later on, cognizance of the offences was taken by the court of Subdivisional Judicial Magistrate in G.R. No. 1292 of 2012 through the order dated 17-2-2014. The petitioners have filed a supplementary affidavit annexing the said order. The result is

that the order taking cognizance is also under challenge.

3. Heard Sri Praveen Kumar Agrawal, learned counsel for the petitioners and Sri Narayan Singh, learned senior counsel for the opposite party no.2- informant.

4. Opposite party no.2 filed a complaint stating that he intended to sell ten dhoors of land to Urmila Devi, petitioner no.1 and proceeded to the Office of registering authority, executed the sale deed and he went back to the village. He is said to have been informed that the sale deed was executed in respect of 5 kathas 10 dhoors of land. Alleging that the petitioners played fraud against him, opposite party no.2 filed a complaint.

5. The trial court took cognizance of the offences. Even if the contents of the complaint, and for that matter, the F.I.R. are taken to be true, at the most it would be a case of misrepresentation of facts on the part of the petitioners herein ,leading to execution of sale deed in respect of a larger extent. It is only when a civil suit is filed and a finding is recorded to the effect that there was an act of misrepresentation on the part of the petitioners or coercion leading to the execution of the sale deed in respect of a larger extent, that the possibility for filing a complaint may exist. So long the sale deeds stand in the present form, the petitioners can not be said to have committed such offence. At the

same time the opposite party no.2 has the right to institute the proceedings in the civil court and approach the criminal court depending on the finding of the civil court.

6. For the foregoing reasons, this application is allowed and the order dated 17-2-2014 through which the Subdivisional Judicial Magistrate took cognizance of the offences is quashed.

7. It is left open to opposite party no.2 to file a civil suit for appropriate relief, and in the event of the finding that the petitioners have committed fraud or misrepresentation, it shall be open to him to file a complaint under the relevant provision. The suit, if filed, the concerned court shall dispose it of as early as possible. If any question of limitation arises, the trial court shall extend the benefit of section 14 of the Limitation Act to opposite party no.2.

(L. Narasimha Reddy,CJ)

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