

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.48584 of 2012

Arising Out of PS.Case No. -1616 Year- 2010 Thana –Complaint Case District- PATNA

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1. Dilip Kumar Mahto @ Dilip Mahto son of Maheshwar Mahto
 2. Maheshwar Mahto son of Late Ramu Mahto
- Both are residents of village Sikarpur, Police Station Sorapur, District Saran (Chapra)
3. Rabindra Kumar son of Late Das Narayan Singh, resident of Mohalla Paharipar, P.S. - Agam Kuan, District - Patna
 4. Rajesh Kumar, son of Raghunath Prasad, resident of Village - Sadikpur, P.S. - Alamganj, District - Patna

.... Petitioners

Versus

1. The State of Bihar
2. Sri Nandan Singh, Son of Late Ram Charan Singh, resident of Mohalla - Bahula Nagar, Police Station - Ram Krishna Nagar, District - Patna

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Rajendra Narayan, Sr. Advocate
Mr. Rajeev Ranjan Sinha, Advocate

For the State : Mr. Ashraf Ansari, APP

For the O.P. No.2 : Mr. Nawal Kishore Singh,
Mr. Jitendra Nath Tiwary, Advocates

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 21-05-2015

Heard learned senior counsel for the petitioners and learned
APP for the State assisted by learned counsel for the opposite party
no.2.

2. The present application has been filed for quashing the
order dated 29.04.2011 passed in Complaint Case No.1616 (C) of
2010 by Sri Sunil Kumar II, Judicial Magistrate, Ist Class, Patna
whereby the learned Magistrate has taken cognizance of offences
under Sections 468 and 120B of the Indian Penal Code and directed

issuance of process against the petitioners.

3. According to the complaint, it appears that petitioner nos.1 and 2 executed two sale deeds in respect of two plots in favour of the complainant and his daughter respectively, the deal having been negotiated through petitioner no.3, a property dealer. It is alleged that while the land measuring 2052 Sq. ft. was mutated in the name of the complainant, the other land measuring an area of 684 Sq. Ft. was not mutated in the name of the complainant's daughter, namely, Preeti Kumari. The complainant claims that the land in question had already been sold to several other persons earlier which had been mutated in their respective names.

4. Mr. Rajendra Narayan, learned senior counsel appearing for the petitioners, submits that in view of the subsequent development by way of mutation having been made in favour of the complainant's daughter, Preeti Kumari on 13.08.2012 and the rent receipts having been issued in her name (Annexure-3), there remains nothing for the complainant to be aggrieved about, and continuance of the prosecution against the petitioners would amount to abuse of process of the court. It is categorically stated on behalf of the petitioners that they will abide by the sale deeds executed by them in favour of the complainant and his daughter.

5. Mr. Nawal Kishore Singh, learned counsel appears on

behalf of the opposite party no.2 and has been heard. From the counter affidavit filed on behalf of the opposite party no.2, it is not in dispute that construction is already being made by the vendee over the land in question.

6. Having regard to the entirety of the facts and circumstances of the case as well as the stand of the parties, therefore, this Court is of the view that no useful purpose will be served in continuing the prosecution against the petitioners.

7. In the interest of justice and in the facts and circumstances of the case, the impugned order dated 29.04.2011 passed in Complaint Case No.1616 (C) of 2010 by Sri Sunil Kumar II, Judicial Magistrate, Ist Class, Patna which the learned Magistrate has taken cognizance of offences under Sections 468 and 120B of the Indian Penal Code is hereby quashed. The petition stands allowed.

(Vikash Jain, J)

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