

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28723 of 2014

Arising Out of PS.Case No. -1477 Year- 2013 Thana -EAST CHAMPARAN COMPLAINT
District- EASTCHAMPARAN(MOTIHARI)

- =====
1. Saroj Kumar @ Saroj Jha Son of Yogendra Jha resident of Majaura, P.S.- Jhanjharpur, District- Madhubani
 2. Ravi Shankar Raj Son of Vijay Mishra resident of mohalla- Bhawanipur Zirat, P.S.- Chhatauni, District- East Champaran
 3. Ras Narayan Jha Son of late Gokul Jha resident of village- Sri Krishna Nagar, P.S.- Town, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. Sujan Kumar Rai Barmen

.... Opposite Party/s

=====

with

Criminal Miscellaneous No.33988 of 2014

Arising Out of PS.Case No. -1477 Year- 2013 Thana -EAST CHAMPARAN COMPLAINT
District- EASTCHAMPARAN(MOTIHARI)

- =====
1. Uma Shankar Mishra Son of Late Kamod Mishra
 2. Lalit Narain Mishra Son of Sri Uma Shankar Mishra Both resident of Village - Bajajpatti Madhuban Chhawani Chowk, P.S. Town, District - East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. Sujan Kumar Rai Barmen

.... Opposite Party/s

=====

Appearance :

(In Cr.Misc. No.28723 of 2014)

For the Petitioner/s : Mr. Ashok Kumar

For the Opposite Party/s : Mr. Sunil Kumar Pandey(App)

(In Cr.Misc. No.33988 of 2014)

For the Petitioner/s : Mr. Ashok Kumar

For the Opposite Party/s : Mr. Sunil Kr. Panday (App)

=====

CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA
ORAL ORDER

has been filed in Cr. Misc. No. 33988 of 2014 showing that petitioner no.1 has got some cases to his credit.

Heard the parties.

Both the criminal miscellaneous applications arise out of the similar police station case and as such both are being disposed of by passing this common order.

Both applications have been filed for granting anticipatory bail to the petitioners for the offence punishable under sections 419, 420, 406, 467, 468, 471, 120-B and 34 of the I.P.C.

Allegedly petitioner no.1 in Cr. Misc. No. 33988 of 2014 having power of attorney executed sale deed in favour of his son petitioner no.2 with respect to Khata No. 4 Plot No. 2784 area 2.90 decimiles, thereon the petitioners of Cr. Misc. No. 33988 of 2014 are witnesses, identifier and deed writer. It is alleged that the value of the property was worth Rs. 70,00,000/- and consideration amount has been shown only worth Rs. 28,88,000/- and in that way petitioner no.1 cheated the Government also as well as the real owner.

Submission is that admittedly petitioner no.1 was having power of attorney executed by Chitranjan Mukherjee and Swastika Banerjee, both owners of the land in question. Chitranjan Mukherjee and his sister Manjari Mukherjee and Swastika

Banerjee has executed the power of attorney on 26th September, 2011 by which the petitioner no.1 was appointed as power of attorney holder on their behalf but subsequently due to death of Manjari Mukherjee the aforesaid power of attorney had rectified on 21.12.2012 and he being authorized to sell the land sold the same and deposited the amount in the account as per direction of the land owner. The petitioner has paid full amount vide Annexure-3 series in which Rs. 9,05,000/- was paid through cash and rest amount has been paid through cheque. Further the dispute appears purely of civil nature and Chitranjan Mukherjee and Swastika Banerjee, both the owner has filed Title Suit No. 607 of 2013 which is pending in the court of Sub. Judge, Motihari, East Champaran. The suit has been filed for declaration that the sale deed dated 17.10.2012 and 20.01.2012 executed by petitioner no.1 in favour of petitioner no.2 is abnatio void and as such when civil remedy is available this criminal case is not fit to be continued and the petitioners deserve sympathetic consideration to which the learned counsel for the complainant and the learned A.P.P. opposed by pointing out that the power of attorney executed in favour of petitioner no.1 was cancelled later on and the land owner has executed the power of attorney in favour of the complainant and further petitioner no.1 is land grabber and he has got several

cases to his credit.

Considering the submissions urged at the bar and the materials on record it appears that the dispute appears purely of civil nature as the Title suit No. 607 of 2012 has already been filed in the competent court and as such the above named petitioners in both the cases, in case of their arrest or surrender within two months from the date of receipt/production of a copy of this order, shall be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of C.J.M. Motihari, East Champaran in Complaint Case No. C-1477 of 2013 subject to the conditions as laid down in section 438 (2) of the Cr.P.C.

(Jitendra Mohan Sharma, J)

Abhay/-

U		T	
---	--	---	--