

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20140 of 2015

Arising Out of PS.Case No. -82 Year- 2014 Thana -MOTIHARI TOWN District-
EASTCHAMPARAN(MOTIHARI)

- =====
1. Md. Habib son of Late Suleman Mian resident of Mohalla - Khodanagar, P.S. - Chhatauni, District - East Champaran.
 2. Mehrun Nessa wife of Md. Shamshad Alam resident of village - Parsa Pathanpatti, P.S. - Darpa, District - East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Dr. Sanjay Kumar son of Sri Bhagwan Lall resident of Mohalla - Station Road, Khusrupur, P.S. - Khsurupur, District - Patna, the then District Sub-Registrar, East Champaran at Motihari.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Adv.

For the Opposite Party/s : Dr. Mayanand Jha, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 11-05-2015

Heard learned counsel for the petitioners and learned
counsel for the State.

2. The present application under section 482 of the Code of Criminal procedure has been filed for quashing the First Information Report of Motihari Town P.S.Case No. 82 of 2014 registered under sections 419, 420, 467, 468 and 471 read with 34 of the Indian Penal Code.

3. The prosecution case is based on the written report submitted by the opposite party no.2 before the Officer-in-Charge of Motihari Town Police Station, wherein it has been alleged that on



21.01.2013 petitioner no.1 Md. Habib executed a sale deed in favour of petitioner no.2 Mehrun Nessa and presented the same for registration in the office of the informant and got registered the sale deed bearing no. 1019/2013 in respect of a plot which belonged to “Kaishre Hind”. The informant has further alleged that on the basis of wrong facts and false statement made with malafide intention, the sale deed in question was got registered in utter violation of section 82 of the Indian Registration Act, 1908 and section 55 of the Transfer of Property Act, 1882.

4. Learned counsel for the petitioners has submitted that the father of petitioner no.1 Md. Habib, namely, Late Suleman Mian was actual title holder of the land in question. The title of his father over the land has been declared by the civil court of competent jurisdiction, which has not been up-set by any higher court. He has further submitted that the title in his favour has been recognized by the Anchal authorities and the authorities of Nagar Parishad. In that circumstance, the allegations made in the First Information Report by the District Sub-Registrar are not correct.

5. Be that as it may, at this stage, it is not proper for this Court to consider the defence of the petitioner for the purpose of quashing the First Information Report. The allegations made in the First Information Report do attract the ingredients of cognizable

offence. The defence of the petitioners can be looked into by the investigating agency in course of investigation of the case and, if the investigating agency would be satisfied, it will be open for them to file final report before the Magistrate concerned. However, if the defence of the petitioners is not found true in course of investigation, the investigating agency may submit charge sheet against the petitioners before the Magistrate concerned. In that case, the Magistrate concerned would pass appropriate orders in accordance with law on the basis of materials collected in course of investigation.

6. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

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