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IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.38137 of 2014

Arising Out of PS.Case No. -68 Year- 2013 Thana -AURANGABAD COMPLAINT CASE District- AURANGABAD

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1. Sunil Pandey Son of Muneshwar Pandey Resident of village- Sri Krishna Nagar, Aurangabad, P.S.- Aurangabad, District- Aurangabad
2. Ram Vinay Singh Son of Sri Ramraj Singh Resident of village- Pauthoo, P.S.- Pauthoo, District- Aurangabad

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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with

Criminal Miscellaneous No.38144 of 2014

Arising Out of PS.Case No. -68 Year- 2013 Thana -AURANGABAD COMPLAINT CASE District- AURANGABAD

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Devendra Sharma @ Devendra Kr. Singh Son of Late Sukhdeo Singh Resident of village- Pauthoo, P.S.- Pauthoo, District- Aurangabad

.... Petitioner/s

Versus

. The State of Bihar

.... Opposite Party/s

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with

Criminal Miscellaneous No.39509 of 2014

Arising Out of PS.Case No. -68 Year- 2013 Thana -AURANGABAD COMPLAINT CASE District- AURANGABAD

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Vivekanand Son of Late Nawal Kishore Sharma Resident of Village + P.S. - Pauthoo, District- Aurangabad, at present resident of Sri Krishna Nagar, P.S. + District - Aurangabad.

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2. Raghvendra Kumar

3. Phulendra Kumar Singh Both Sons of Late sukhdeo Singh Resident of Village - Pauthoo, P.S. - Pauthoo, District- Aurangabad.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.38137 of 2014)

For the Petitioner/s : Mr. Santosh Kumar Pandey

For the Opposite Party/s : Mr. Ajay Kumar Jha (App)

(In Cr.Misc. No.38144 of 2014)

For the Petitioner/s : Mr. Santosh Kumar Pandey

For the Opposite Party/s : Mr. Anita Kumari(App)

(In Cr.Misc. No.39509 of 2014)

For the Petitioner/s : Mr. Santosh Kumar Pandey

For the Opposite Party/s : Mr. Anita Kumari (App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

3 16-01-2015 Heard Mr. Ramakant Sharma, learned Sr. Counsel for the petitioners, Mr. Gajendra Kumar Singh, learned counsel for the Complaint and learned counsel for the State.

The petitioners seek regular bail in connection with Complaint Case No. 68 of 2013 for the offence registered under Sections 417, 418, 465, 468/34 of the Indian Penal Code.

The Complainant, Manindra Singh, alleged that Plot

No. 1907/1389 of Khata No. 202/149 measuring 13 decimals, was allotted to his father in a Partition Suit No. 81 of 2012 from the permanent Lok Adalat. The complainant alleged that his father were five brothers, namely, Baikunt Singh, Sakaldeep Singh, Nawal Kishore Sharma, Awadh Kishore Sharma and Bharat Sharma. Except Awadh Kishore Sharma, the four brothers of complainant's father were issueless. Nawal Kishore Sharma was the Karta of the family.

It is alleged that Devendra Sharma, who is an advocate clerk forged the documents. Devendra Sharma and his son Vivekanand Sharma killed Shanti Devi, wife of Nawal Kishore Sharma for which, Aurangabad Town P.S. Case No. 404 of 2010 was registered. Vivekanand Sharma claimed himself to be the adopted son of Nawal Kishore Sharma. It is alleged that a will was created. It is alleged that Nawal Kishore Sharma and his wife willed his land in favour of Vivekanand Sharma. Vivekanand Sharma executed a forged sale deed in favour of Raghavendra Kumar and Fulendra Singh. Sunil Pandey and Ram Binay Singh are the witnesses.

Learned counsel for the petitioners submits that the sale deed, in question, is said to have been forged of which, proper remedy lies in the Civil Court. There is contention and counter

contention between the parties that Nawal Kishore Sharma and his wife executed a will. Probate proceeding is still pending. On the basis of adoption, Vivekanand Sharma executed a sale deed in favour of Raghavendra Kumar and Fulendra Singh. It is further submitted that in the complaint, notices were issued but after finding prima facie case, the a Bench of this Hon'ble Court in Criminal Miscellaneous No. 41393 of 2013 stayed the further proceeding in Complaint Case No. 68 of 2013 on the petition, filed for quashing the order taking cognizance.

On the other hand, learned counsel for the complainant submitted that the petitioners have conspired to grab the land. Although, there is no document to show that Vivekanand Sharma was the adopted son of Nawal Kishore Sharma and his wife. Nawal Kishore Sharma and his wife have not executed will.

Having considered the facts, it is evident that the complainant disputed the genuineness of the sale deed and the authority of Vivekanand Sharma to execute the sale deed. Vivikanand Sharma executed the sale deed, claiming himself to be the adopted son of Nawal Kishore Sharma and his wife Shanti Devi. They also willed their property. Probate case is still pending. The genuineness of the will is yet to be decided but on the facts, it appears that the dispute is out and out of civil nature. The

proceeding of the complaint case has already been stayed. Petitioners are in jail custody since 16.08.2014.

Considering the facts aforesaid, let the petitioners above named be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Judicial Magistrate, 1st Class, Aurangabad in connection with Complaint Case No. 68 of 2013.

(Prabhat Kumar Jha, J)

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