

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33953 of 2012

Arising Out of PS.Case No. -169 Year- 2007 Thana -null District- SHEOHAR

=====

1. Ashok Kumar Singh son of Dinanath Singh, resident of village Brindaban Musahari, P.S. Tariyani, District Shivhar

2. Rajesh Kumar Singh son of Lal Babu Singh, resident of village Gosaiपुर, P.S. Shyampur, Bhataha, District Shivhar.... Petitioner/s

Versus

1. The State of Bihar

2. Manish Kumar Singh son of Devendra Singh, resident of village Tikuliya, P.S. Pipra, District East Champaran

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Radha Krishna Singh, Advocate

For the Opposite Party/s : Dr. Ajit Kumar, APP

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 20-04-2015

The Petitioners seek quashing of the order of cognizance dated 17.9.2010 passed by the Judicial Magistrate, 1st class, Shivhar in Complaint case No. C1-169 of 2007 (Trial No.1078 of 2010).

In the nature of allegations on the last occasion, notices had been issued to the Opposite Party No.2 but despite house service no one appears on his behalf.

The prosecution case is that one Chandeshwar Singh was maternal grand father of the Complainant whereas Most. Surya Kuer was his grandmother. They did not have a male issue. The Complainant and his brother were looking after their grand mother and hence she executed a deed of Ataynama in regard to a certain piece of land. However, the Petitioners got the said land executed in their favour by a certified sale deed by impersonating the grand mother.

It has been submitted on behalf of the Petitioners that initially Complainant filed Complaint case No.30 of 2002 which was sent for investigation under Section 156(3) Cr.P.C., upon which Sheohar P.S. case No.29 of 2002 was instituted. The same ended in a final report, at which a protest petition was filed, which was treated as a Complaint. An enquiry took place and then Complaint was dismissed under Section 203 Cr.P.C., against which the Complainant moved the Revisional Court which remanded the matter and thereafter the present impugned order was passed. It has further been submitted on behalf of the Petitioners that even conceding the allegations in the Complaint Petition that there being no documentary proof with regard to impersonation, evidently the allegations are imaginary and they are not fit to put Petitioners on trial.

Having considered the aforesaid arguments, the application is allowed and the proceeding including the order dated 17.9.2010 passed by the Judicial Magistrate, 1st class, Shivhar in Complaint case No. C1-169 of 2007 (Trial No.1078 of 2010) is hereby set aside.

However, this order shall not prejudice any party in any manner.

(Anjana Prakash, J)

Narendra/-

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