

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.13988 of 2013**

Arising Out of Complaint Case No. -45 Year- 2011 District- ARRARIA

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1. Nand Mohan Singh, S/O Late Jitan Lal Singh, Resident Of Village-  
Sorgaw, P.S.- Kursakanta, At Present Deed Writer in office of Sub  
Registrar, Forbesganj, P.S.- Forbesganj, District- Araria ( since died)  
2. Promod Kumar Singh @ Pramod Kumar Singh, S/O Kapildeo Singh,  
Resident Of Village- Shankarpur, P.S.- Kursakanta, District- Araria

.... .... Petitioner/s

Versus

1. The State Of Bihar  
2. Dilip Kumar Mukhiya, S/O Late Sheojee Mukhiya, Resident of Village-  
Chikni, P.S.- Kursakanta, At Present Resident Of Village- Jagir-Palasi, P.S.-  
Kursakanta, District- Araria

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Sarangdhar Jha, Advocate

For the Opposite Party/s : Mr. Ajay Kumar-2(App)

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**CORAM: HONOURABLE MR. JUSTICE AMARESH KUMAR LAL**  
**ORAL ORDER**

4      25-06-2015      Heard the learned counsel for the petitioners and the State.

The opposite party no.2 has not appeared even after service of notice.

This application has been filed for quashing the order dated 12.10.2011 passed by the learned Judicial Magistrate, Araria in Complaint Case No.45/2011 by which cognizance has been taken against the accused for the offence punishable under Sections 418, 420 and 120B of the Indian Penal Code.

The prosecution case, in brief, is that Fojni Devi is the owner of the land bearing Khata no. 297 of village-Chikni and Khata no. 159 of village-Pararia. Ravi Bahardar died leaving the owner of land bearing Khata nos. 297 and 159 of villages- Chikni and Pararia respectively. Rigul Bahardar (son of Ravi Bahardar) and Fuchia Devi

(daughter of Ravi Bahardar) came in possession of the aforesaid lands. After their death, Laxmi Bahardar and Fojni Devi inherited the property and came in possession. The land of Fojni Devi was looking after by Laxmi Bahardar. The complainant Dilip Kumar Mukhiya (opposite party no. 2) is the son of Fojni Devi. The complainant and his brother used to go to Delhi and Punjab for their livelihood. In their absence, accused Nakul Bahardar used to look after Fojni Devi and her property. On 2.11.2010, Nakul Bahardar and Maheshlal Mandal came to Fojni Devi and told her that her treatment could be made by good doctors at Forbisganj and they would also get sanctioned money under the Indira Awas Yojna. They took her to Forbisganj where the accused Durganand Mandal, Jitendra Kumar Mandal, Promod Kumar Singh (petitioner) and Prabhu Dayal Singh were present. All the accused got the thumb impression of the mother of the complainant on the blank papers. Thereafter, accused Nakul Bahardar told that doctor was not available and for the grant of money she would have to come on the next date. On 27.11.2010 the accused Nakul Bahardar and Shankar Shah brought Fojni Devi to Forbisganj on the assurance of payment of money under the Indira Awas Yojna and her treatment by the doctor. Again the accused got thumb impression of Fojni Devi. Later on, it was conveyed to Fojni Devi that she would have to come to Forbisganj again for taking money under the Indira Awas Yojna and the doctor was not available and thereafter, the accused Nakul Bahardar went to his village- Chikni. Later on, Fojni Devi asked several times to the accused Durganand Mandal, Jitendra Kumar Mandal, Pramod Kumar



Singh, Prabhudayal Singh and others that when she would get money under the Indira Awas Yojna and when she would be taken to the doctor, but everyone avoided her on one or the other ground. Later on, Fojni Devi came to know that two deeds got executed by her in collusion with accused persons. The two deeds had been executed without giving the consideration money of Rs.1,50,000/- and Rs.49,000/- to her. When complainant came to his house and knew the aforesaid facts, he made it known to the villagers and a panchyati was held. Accused nos. 1 to 6 accepted their guilt and gave assurance of cancellation of the deeds, but that was not done. It has been further alleged that accused nos. 7 to 12 are the deed writers and identifiers of the aforesaid forged and fabricated deeds.

Learned counsel for the petitioner submits that Nand Mohan Singh (petitioner no. 1) was working as deed writer in the Sub-Registry Office, Forbisganj, whereas, Pramod Kumar Singh (petitioner no.2) was identifier of Mostt. Fojni Devi at the time of execution of the sale deeds. The sale deeds were executed at the instance of Fojni Devi. Both these deeds have been registered just to preserve the names, photographs, finger prints and signatures of the executants and their identifiers. The execution of the sale deeds has not been challenged by the complainant in the complaint petition. It has also been submitted that the aforesaid two sale deeds had been executed by Mostt. Fojni Devi on 24.12.2010 and both Durganand Mandal and Jitendra Mandal filed Title Suit no. 193 of 2011 in the court of Sub-Judge, Araria, against Fojni Devi. It appears that no allegation has been made against

the petitioners. Petitioner no. 1 Nand Mohan Singh died during the pendency of this application. Since no allegation has been made against the petitioners, the proceeding against the petitioners is an abuse of the process of the Court.

Learned counsel for the State submits that cognizance has been taken against the accused including the petitioners in accordance with law.

After hearing the learned counsel for both the parties and on perusal of the material on record, it appears that the contention of the learned counsel for the petitioners is correct. The allegation against the petitioner no. 2 is that he is only the identifier and not beneficiary of the sale deeds. Moreover, the sale deeds are the subject matter of the Title Suit no. 193 of 2011 in the court of learned Sub-Judge, Araria.

Considering the facts and circumstances stated above, in my opinion, the present proceeding against the petitioner no. 2 is not warranted. As such, the impugned order is set aside so far as the cognizance against the petitioner is concerned.

In the result, this application is allowed.

**(Amaresh Kumar Lal, J)**

V. K. Pandey/-

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