

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10992 of 2013

Arising Out of PS.Case No. -486 Year- 2011 Thana -MASAURHI District- -

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1. Rajendra Giri, son of Shiv Narayan Giri R/O Village- Taregna Math,
P.S- Masaurhi, Distt- Patna.

.... Petitioner.

Versus

1. The State of Bihar.
2. Ramjee Giri, son of Late Ramratan Giri R/O Village- Taregna Math, P.S-
Masaurhi, Distt- Patna.

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. P.Mehta (App)

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

2 23-07-2015 Heard learned counsel for the petitioner and learned
counsel for the State.

This is a petition for quashing the impugned order dated
07.06.2012 passed by the learned Sub-Divisional Judicial
Magistrate, Masaurhi, in Masaurhi P.S. Case No. 486 of 2011, by
which cognizance has been taken for offence under Section
420,467 and 468/34 of Indian Penal Code.

The prosecution case as alleged in the First Information
Report by Ramjee Giri that his mother Ful Kunwar, wife of Ram
Ratan Giri, executed sale deed bearing Kewala No. 3720, dated
10.09.1947, in the name of Kari Kunwar, wife of Late
Parmeshwar Giri. In the said document, deed was executed



mentioning Plot No. 1850, Khata No. 58 of 12 dhoor land as well as Plot No. 1813, Khata No. 58, area of 5/1/2 dhoor and Plot No. 1882, Khata No. 430, of 4 dhoor land. It is alleged that Shiv Narayan Giri, Shyam Narayan Giri, forged the document by deleting Plot No. 1850 and in place of Plot No. 1850, it has been substituted Plot No. 1752 and after forging the document, filed a petition for mutation of the land. It is further alleged that even boundaries were also manipulated, so allegation is that in the sale deed, original Plot No. 1850 has been altered by over writing 1752 in place of 1850 written. It is further alleged that in the certified copy of the said document original Plot No. 1850 of Khata No. 58 stands and in this regard report of Revenue Clerk and Circle Officer prove that the document has been forged.

On the said written report, F.I.R. lodged and police after investigation submitted charge sheet. However, taking into consideration the allegation made on the face of it, it is apparent that there is allegation there is alternative in the original deed by substituting 1752 in place of 1850 for plot number and the same was used for mutation of the name.

Forgery has been defined under Section 463 of Indian Penal Code “whoever makes any false documents with intention to cause damage to the public or to any person to support any claim

or title.

However, making false document has been defined under Section 464 of Indian Penal Code and three conditions provided under heading, First, Secondly and Thirdly out of which it is relevant to quote the Secondly-- “who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with (electronic signature) either by himself or by any other person, whether such person be living or died at the time such alteration; .

Having regard to the allegation itself, document was executed in 1947 mentioned Plot No. 1850 and it is alleged that after execution and registration of document Plot No. 1850 was altered by replacing it by 1752 for making a claim and hence as per allegation and circumstance secondly provided under Section 464 I.P.C. it is made out a cognizable offence for forgery and if cognizable offence is made out, the police has right to investigate the case. The police after investigation has also submitted charge sheet and on the basis of which cognizance has been taken.

Learned counsel for the petitioner however contends that he is in possession of the land since 1957 and he has filed a petition before L.R.D.C. and S.D.O.

However, having regard to the fact, merely because the petitioner is in possession of the land and filed a petition before L.R.D.C. and S.D.O. for mutation is not ground for quashing the F.I.R. or the order taking cognizance when allegation made out an offence as there is alteration in document and that document was used for mutation.

Hence, I do not find any merit to interfere with the impugned order. Accordingly, this petition is dismissed.

However, the petitioner may raise issue at the stage of framing of the charge.

m.p.

(Gopal Prasad, J)

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