

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42437 of 2012

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1. Ramchandra Yadav S/O Late Janak Yadav Resident Of Village-
Hardahi, P.S.- Jainagar, District- Madhubani

2. Mahendra Prasad Yadav

3. Bhogendra Prasad Yadav

4. Upendra Prasad Yadav

5. Subhash Prasad Yadav @ Amrendra Yadav

6. Jibachh Yadav All 2 to 6 are sons of Ram Adhin Yadav Resident Of
Village And P.S.- Kaluahi, District- Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav

For the Opposite Party/s : Mr. Ram Chandra Sahani (App)

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 13-03-2015 Heard the learned counsel, Mr. Gagan Deo Yadav on
behalf of the petitioners.

Nobody appeared on behalf of the State of Bihar.

This application under Section 482 of the Code of
Criminal Procedure has been filed by six petitioners against whom
cognizance has been taken by C.J.M., Madhubani on 18.12.2007
in G.R. No.529 of 2000 arising out of Khajauli(Kaluahi) P.S. Case
No.41 of 2000 under Sections 420, 467, 120B/34 I.P.C.

It appears that the informant, Shambhu Kumar Gupta
lodged the F.I.R. alleging that the property compromised within
khata no.129 plot no.4189 measuring 1 katha 14 dhurs has been



acquired by the informant and his brother, Kailash Kumar Gupta from Bindeshwar Sahu by registered sale deed dated 24.04.1987. On 27.03.2000, a sale deed was executed with respect to another property wherein the boundary of the land sold was wrongly described with intention to defeat the right of the informant regarding the land purchased by him because of conspiracy and in that conspiracy, the present petitioners are involved, therefore, they have been made witness in the sale deed dated 27.03.2000.

On the basis of this information, the police investigated the matter and then submitted final form on 26.01.2001 finding that it is a mistake of fact. Thereafter, a protest petition was filed. Then the impugned order dated 18.12.2007 was passed by the C.J.M. taking cognizance of the offence under Section 420, 467, 120B/34 I.P.C on the basis of the statements of the witnesses recorded in paragraph 6, 15 and 16 of the case diary.

The learned counsel for the petitioners submitted that even the allegation made in the F.I.R. is taken it to be correct in its face value then also it does not disclose offence to have been committed by the petitioners. According to the F.I.R., the petitioners are only witnesses in a registered sale deed. The allegation is that the boundary mentioned in the sale deed in which

the petitioners are witnesses is wrong and because of conspiracy, they have described the boundary wrongly with intention to defeat the title of the informant.

As stated above, nobody appeared on behalf of the State of Bihar.

Perused the F.I.R. and also the statements made in paragraph 6, 15 and 16 of the case diary. At paragraph 6, the statement of informant has been recorded under Section 161 Cr.P.C. Likewise, the statements of other two witnesses have been recorded in paragraph 15 and 16. From perusal of these statements, it appears that same statements have been made which are in the same line as that made in the F.I.R. i.e. in conspiracy with each other, with intention to defeat the right of the informant, the boundary of the property sold has wrongly been described. Regarding this conspiracy or intention to defeat the right of the informant, there is no evidence on the basis of which it can be said that the witnesses i.e. the petitioners have got any role to play in the matter.

In my opinion, therefore, on the basis of the statements of the witnesses, as mentioned in the impugned order, no offence is disclosed to have been committed by the petitioners. It appears that it is in fact, a civil dispute and if the impugned

order is allowed to stand then it will be nothing but abuse of the process of the court and the petitioners shall be harassed.

In the result, this Criminal Miscellaneous case is allowed. The impugned order dated 18.12.2007 passed in G.R. No.529 of 2000 arising out of Khajauli(Kaluahi) P.S. Case No.41 of 2000 is quashed.

(Mungeshwar Sahoo, J)

Saurabh/-

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