

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.573 of 2015

Arising Out of PS.Case No. -498 Year- 2014 Thana -JAHANABAD District- JEHANABAD

1. Amarendra Kumar Son of Ram Janam Singh Resident of Village-Berka P.S-
Makhdumpur, Distt.-Jehanabad

.... Petitioner/s

Versus

1. The State of Bihar
2. Lallan Yadav Son of Ram Dahin Yadav Resident of Village-Berka P.S-
Makhdumpur, Distt.-Jehanabad

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ratanakar Jha, Adv.
Mr. Amresh Kumar, Adv.
For the Opposite Party/s : Mr. Jharkhandi Upadhyay (App)

CORAM: HONOURABLE MR. JUSTICE Ashwani Kumar Singh

ORAL JUDGMENT

Date: 24-08-2015

Heard learned counsel for the petitioner and learned
counsel for the State.

2. By way of filing an application under section 482 of the
Code of Criminal Procedure, the petitioner seeks quashing of the
order dated 27.11.2014 passed by the learned Chief Judicial
Magistrate, Jehanabad in connection with Jehanabad P.S.Case No.
498 of 2014 registered under Sections 147, 149, 323, 341, 307 and
379 of the Indian Penal Code, whereby and whereunder he has
directed the Jail Superintendent, Jehanabad to produce opposite party
no.2 before the Registrar, Jehanabad to ensure registration of
document.



3. According to the prosecution case, on 20.11.2014 the informant received an information from his brothers Jitendra Sharma and Dilip Kumar to the effect that one Narayani Devi wife of Late Jai Ram Singh had contacted for sale of a piece of land measuring 5 bigha with respect of khata nos. 340, 343, 753, plot nos. 104, 34, 15 for which Late Jai Ram Singh had received a sum of Rs.4,71,000/- from the petitioner (informant). On such information when the informant along with his brothers came to the office of the Registrar, Jehanabad, they saw Ramjeet Yadav, Lallan Yadav, Ranjeet Yadav and Gadi Yadav, all sons of Lallan Yadav, Butan Yadav and Kamlesh Yadav present there. The aforesaid persons assaulted the informant and his brothers by fasuli and iron rod. They also snatched gold chain from the brother of the informant.

4. On the basis of the written report submitted by the informant Amrendra Kumar, Jehanabad P.S.Case No. 498 of 2014 dated 20.11.2014 was registered against the opposite party no.2 and five others and investigation was taken up. During pendency of investigation, opposite party no.2 Lallan Yadav filed an application for bail before the learned Chief Judicial Magistrate, Jehanabad, which was rejected by him vide order dated 27.11.2014. Thereafter, the said opposite party no.2 made an application to the learned Chief Judicial Magistrate, Jehanabad to direct the Jail Superintendent to

produce him on 29.11.2014 before the registering authority for registration of document, which was allowed vide order dated 27.11.2014. The said order dated 27.11.2014 is under challenge before this Court.

5. Learned counsel for the petitioner has contended that the aforesaid order dated 27.11.2014 passed by the learned Chief Judicial Magistrate, Jehanabad by which he has directed the Jail authority to produce opposite party no.2 before the registering authority in police escort on 29.11.2014 is quite illegal, improper and without jurisdiction. He submits that the land in question cannot be sold in favour of Lallan Yadav or his sons as the husband of Narayani Devi, namely, Late Jai Ram Singh had already received advance amount in respect of the land in question from the informant in the year 2005. In that view of the mater, the learned Magistrate should not have facilitated the opposite party no.2 to get the sale deed executed in his favour illegally.

6. On the other hand, learned counsel for the State has submitted that the impugned order suffers from no illegality. Referring to Annexure-2 to the application filed by the petitioner, it has been contended that the opposite party no.2 had contended before the learned Chief Judicial Magistrate, Jehanabad that he has paid the entire consideration amount after preparation of the sale deed by the



deed writer and when the same was going to be presented for registration, after admission of executant, the petitioner and his brothers started creating trouble and after getting local police in collusion, got a false case instituted against the opposite party no.2 and others, who were bonafide purchaser of the land in question. He has further contended that from perusal of the application filed by the opposite party no.2, as contained in Annexure-2 to the present application, it would appear that the opposite party no.2 is in service of Shastra Seema Bal and his leave was going to expire on 01.12.2014 and therefore, to avoid future complication when the prayer for bail was refused by the learned Chief Judicial Magistrate, an application was moved to allow him to be present before the Registrar, Jehanabad on 29.11.2014.

7. I have heard the respective counsel for the parties.

8. In my view, the impugned order dated 27.11.2014 passed by the learned Chief Judicial Magistrate, Jehanabad does not suffer from any illegality. By the impugned order, he has simply allowed the opposite party no.2 to be present before the Registrar on a particular date in police custody. It is a settled principle of law that a criminal court dealing with an offence does not exercise power to adjudicate right, title or possession of a party. The claim of the petitioner regarding advance made to the deceased husband of

Narayani Devi has not been adjudicated by any civil court of competent jurisdiction. Simply because the opposite party no.2 was refused to be enlarged on bail, he does not forfeit the right to purchase the land in question.

9. In that view of the matter, I find no merit in the application. It is accordingly dismissed.

(Ashwani Kumar Singh, J)

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