

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42855 of 2012

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1. Bidhanand Sukla S/o Late Triveni Sukla Village-+,Ps-Rasulpur,District-Saran.
 2. Shyamanand Sukla S/o Late Triveni Sukla Village+,Ps-Rasulpur,District-Saran.
 3. Harendra Pandey S/o Late Shivnand Pandey Village+Ps-Rasulpur Distt.Saran.
 4. Ram Kumar Tiwary S/o Late Jagarnath Tiwary Village-Ashahni,Ps-Rasulpur,District-Saran.

.... Petitioner/s

Versus

1. State Of Bihar
2. Dharendra Tiwary S/o Shyam Narayan Tiwary Village-Rasulpur,Ps-Rasulpur,District-Saran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. S. K. Jha

For the Opposite Party/s : Mr. S.M.Rahman (App)

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

2 21-05-2015 One Sri Dharendra Tiwary of Rasulpur village, District-Saran filed a complaint before the Chief Judicial Magistrate, Chapra, Saran, alleging that one Sarbeshwar Nath Tiwary executed a sale deed dated 29th August, 2006 in respect of the property that was already sold, and the petitioners herein are part of the conspiracy in that. A case, bearing Rasulpur P.S. Case No. 15 of 2007 was registered by referring to sections 420, 467, 468, 471 and 120-B of the Indian Penal Code. The court of Judicial Magistrate, 1st class, Saran, took cognizance of the

offences through the order dated 22-11-2007/28-11-2007. The same is challenged in this criminal miscellaneous petition.

2. Heard learned counsel for the petitioners and learned Additional Public Prosecutor.

3. On the face of it, the petition is not maintainable. The reason is that the order, passed in the year 2007 taking cognizance, is challenged in the year 2012 i.e., after five years. It is hopelessly barred by laches. Secondly the question as to whether the petitioners are party to the alleged conspiracy, needs to be examined in the trial of the case. A purchaser may not be involved in the acts of cheating, in respect of the second sale deed executed, in relation to the same property, by the same vendors. However, much would depend upon the facts of the case. This Court is not inclined to interfere with the order dated 22-11-07/28-11-07.

4. This criminal miscellaneous petition is, accordingly, dismissed.

(L. Narasimha Reddy,CJ)

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