

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6120 of 2016

Arising Out of PS.Case No. -763 Year- 2013 Thana -ROHTAS COMPLAINT CASE District-
SASARAM (ROHTAS)

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1. Niraj Kumar @ Niraj Kumar Choudhary
2. Birsen Chaudhary,
Both S/o Late Rambriksh Chauhdary, R/o Village Niranjan Bigha, P.O.-
Manikpur, P.S.- Dehri, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar,
2. Smt. Shiva Kumari, W/o Shivajee Chaudhary,
3. Shivajee Chaudhary, S/o Late Radhunandan Chaudhary,
Both R/o Village- Niranjan Bigha, P.O- Manikpur, P.S.- Dehri, District-
Rohtas.

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Santosh Kumar, Advocate.
For the Opposite Party/s : Mr. M. Rab, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 29-07-2016

Heard both sides.

The petitioner filed this petition for quashing the order dated 01.10.2013 passed in Complaint Case No. 763/13. The complainant filed the complaint petition alleging therein that Birsen Chaudhary (petitioner no. 2) firstly executed a deed of agreement to sell and thereafter executed the sale deed on 02.02.2010 after receiving the entire consideration amount. The complainant got her name mutated but an employee of the Punjab National Bank came and informed that the vendor had mortgaged the land and he had come to realise the amount.

The complainant was examined on solemn

affirmation and she also examined her witnesses and thereafter the learned court below took cognizance of offence under Sections 420/468 of the Indian Penal Code and issued summons. Learned counsel for the petitioners submits that on the same day, the complainant filed a title suit also but both the criminal case and the title suit shall not be allowed to go together at a time. It is further submitted that no offence under Section 420 and 468 of the Indian Penal Code is made out, but it appears from the complaint petition itself as well as the evidence of the complainant and her witnesses that they have very categorically stated that the opposite party no. 2 sold the land showing the same free from any encumbrance but prior to selling of the land, the petitioners had mortgaged the land to the Punjab National Bank and the petitioners sold the land concealing the fact of mortgage.

Considering the facts aforesaid, I do not find any merit in this quashing petition. Accordingly, the same is dismissed.

(Prabhat Kumar Jha, J)

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