

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2315 of 2016

Arising Out of PS.Case No. -85 Year- 2015 Thana -SHEKHPURA COMPLAINT CASE District-
SEKHPURA

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1. Mirtunjay Kumar son of Upendra Singh
2. Shiv Shankar Singh son of Late Ramji Singh
3. Rajo Singh son of Late Raghu Singh
4. Smt. Asha Devi wife of Shiv Shankar Singh
5. Pankaj Kumar son of Jagdish Singh @ Tapsi Singh
6. Upendra Singh son of Kamo Singh @ Kameshwar Singh All are residents
of village - Katari, P.S. - Korma, District - Sheikhpura.

.... Petitioners

Versus

1. The State of Bihar.
2. Raushan Kumar son of Shri Rambahadur Singh resident of village -
Katari, P.S. - Korma, District - Sheikhpura.

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Pramod Kumar, Advocate.

For the Opposite Parties : Mr. Nagendra Pd.(App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 11-08-2016 Heard both sides.

The petitioners filed this petition under Section 482 Cr.P.C. for quashing the order dated 25.06.2015 passed in Complaint Case No. 85C of 2015, corresponding to Tr. No. 1117 of 2015, by which the learned Chief Judicial Magistrate, Sheikhpura found prima facie case is made out under Section 465 of the Indian Penal Code to proceed against the petitioners.

The brief facts relevant for disposal of this case are that father of the complainant purchased the lands of Khata No. 356, Khesra No. 2621, area 017 decimal and Khata No. 382, Khesra



No. 2619, area 0.12½ decimals situated in village Katari Korma, police station Korma, district – Sheikhpura on 07.08.1967 and 15.11.1967. Both the plots were amalgamated together and father of the complainant remained in possession having Jamabandi No. 181/193. The complainant alleged that on 12.09.2014, when he went to see his land, accused Mirtunjay Kumar disclosed that he purchased the land of Khesra No. 2621. The complainant made enquiry from the registry office and came to know that Shiv Shankar Singh, Rajo Singh and Smt. Asha Devi executed sale deed in favour of Mirtunjay Kumar, although the aforesaid land stands in the name of father of the complainant. On such, complaint petition was filed and the complainant and witnesses were examined. The learned Judicial Magistrate found prima facie case under Section 465 of the Indian Penal Code is made out to proceed against the petitioners.

Learned counsel for the petitioners submits that the aforesaid land was purchased in jointness of Parshuram Singh, Ramjee Singh and Rajoo Singh. Rambahadur Singh son of Ramjee Singh was minor on 07.08.1967 and he had no independent income. Rambahadur Singh also filed Title Suit No. 119 of 2013 for declaration of title, but the same was dismissed for non-prosecution. It is further submitted that it is purely a case of civil

dispute. Shiv Shankar Singh and others are co-sharer and there was a family partition in which the land fell in share of petitioner no. 2 to 4 and they executed the sale deed. It is further submitted that in the name of civil dispute, criminal case has been lodged.

It appears that the land stands in the name of Rambahadur Singh since 1967, as both the plots were purchased in his name and name of Rambahadur Singh was also mutated. The petitioner has not filed any paper showing that there was any family partition in which the lands alleged to have been purchased from the income of joint family fell in their share. There is nothing on record to show that petitioner no. 2 to 4 executed the sale deed in bona fide belief, rather it appears that, they executed the sale deed knowing fully well that the land stands in the name of Rambahadur Singh.

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

However, the petitioners may produce all the documents and raise all the points before the court below at the time of framing of charge.

(Prabhat Kumar Jha, J.)

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