

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 37201 of 2015

Arising out of P.S. Case No. - 739 Year - 2014 Thana - BUXAR COMPLAINT CASE District - BUXAR

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Bacha Lal Sah @ Bachha Lal Sah, S/o Late Kali Prasad Sah, Resident of Village -
Bhariyar, P.S. - Brahampur, District - Buxar

.... Petitioner

Versus

1. The State of Bihar
2. Narvadeshwar Mishra, S/o Late Lal Ji Mishra, Resident of Village - Yogia, P.S.
Brahampur, District - Buxar
3. Ravi Sharma, S/o Shambhu Sharma, Resident of Village - Bhariyar, P.S. -
Brahampur, District - Buxar

.... Opposite Party/s

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Appearance :

For the Petitioner : Mr.

For the Opposite Party : Mr.

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL JUDGMENT

Date: 09-05-2016

Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

This is a petition for quashing the order dated
29.06.2015 passed by Sri Pradeep Kumar Malik, the learned
Sessions Judge, Buxar in Cr. Revision No. 124 of 2014 by which he
has confirmed the order dated 25.07.2014 passed by Sri L.K.
Mishra, the learned Judicial Magistrate-1st Class, Buxar in
Complaint Case No. 739(C) of 2014, Tr. No. 5449 of 2014 by
which he has dismissed the complaint under Section 203 of the
Code of Criminal Procedure.

The prosecution case, as alleged in the complaint
petition, is that opposite party no. 2 got a sale deed executed in his

favour by one Dewanti Devi @ Phuleshwari Devi, wife of Late Ram Bilash Ram by impersonating herself as Maya Devi and on inquiry she disclosed that opposite party no. 2 on the pretext of getting her money under the Indira Awas Scheme took her to the Kutchery, got her photograph and took her thumb impression and hence, committed forgery.

The complainant as well as witnesses was examined on solemn affirmation. However, the complaint was dismissed taking into consideration the statement of the witnesses on the ground that the statement of Dewanti Devi @ Phuleshwari Devi itself appeared to be inconsistent and the matter appeared to be of a civil nature and hence, finding that there is no sufficient ground rejected the complaint. The Revisional Court also affirmed the order on the same ground.

Learned counsel for the petitioner submits that opposite party no. 2 on the basis of the said forged sale deed got the order of mutation.

However, the question for consideration is whether a prima facie case is made making out a sufficient ground for proceeding and going through the complaint petition itself, it is apparent that the said Dewanti Devi, who executed the sale deed by impersonating herself as Maya Devi, has not been made an accused

in the case and only opposite party no. 2, who got the sale deed in his favour, and the witnesses have been made accused. However, no steps have been taken during the inquiry under Section 202 of the Cr.P.C. to get the signature of Dewanti Devi compared with the signature on the sale deed to find out whether the signature alleged to be made in the name of Maya Devi belongs to Dewanti Devi @ Phuleshwari Devi and hence, in view of these facts, I do not find favour to interfere with the impugned order. The petition is disposed of. However, the petitioner, if so advised, may pursue other remedy.

(Gopal Prasad, J)

Kundan

AFR/NAFR	NAFR
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