

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.899 of 2007

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Renu Kumari, Wife of Sri Brahmdav Sah, resident of Ward No. 17/22, P.S.-Madhepura, District-Madhepura.

.... Appellant/s

Versus

1. The State of Bihar.
 2. Baleshwar Bhagat, Son of Late Jangi Lal Bhagat @ Janki Lal Bhagat @ Janki Chaudhary.
 3. Ranjan Kumar Raman, Son of Sri Baleshwar Bhagat.
- Respondent Nos. 2 and 3 are resident of Village-Bhirkhi, Ward No. 17, P.S.-Madhepura, District-Madhepura.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Krishna Pd. Singh, Sr. Adv.

For the Resp. Nos. 2-3 : Mr. Krishna Murari, Sr. Adv.

Mr. Yogendra Prasad, Adv.

For the State : Mr. Sujit Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 16-12-2016

This appeal, under Section 341 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as the Code*), has been preferred against an order, dated 13.04.2007, passed by learned Additional Sessions Judge,



Fast Track Court No. 2, Madhepura, in Misc. Case No. 3 of 2005, whereby, learned court below has allowed a petition filed by respondent Nos. 2 and 3, under Section 340 of the Code, and a direction has been made to file a complaint case against the appellant for commission of offence punishable under Section 465 of the Indian Penal Code (*hereinafter referred to as the IPC*).

2. I have heard learned senior counsel for the appellant, learned senior counsel for respondent Nos. 2 and 3 and learned Additional Public Prosecutor representing the State of Bihar.

3. There are certain facts which are not in dispute. The appellant herein had filed a succession certificate, bearing No. 05 of 1992, before learned District Judge, Madhepura, which subsequently came to be transferred to the file of learned Additional District and Sessions Judge, Fast Track Court No. 2, Madhepura, claiming herself to be the adopted daughter of one late Raj Kumari Chaudhary with the pleading that she was taken in adoption in 1969. Respondent No. 3, namely, Ranjan Kumar, had also filed a succession certificate, bearing No. 05 of 1993, claiming himself to be the adopted son of said late Raj Kumari Chaudhary.

4. With an allegation that the appellant herein



made certain interpolations in the complaint filed by her before the learned court below by making the year of adoption "1968" in place of "1969", the respondent No. 3 had filed an application before the learned Additional District & Sessions Judge, Fast Track Court No. 2, Madhepura, for initiating action against her in accordance with Section 340 of the Code. It appears from the record that the appellant allegedly did so because said late Raj Kumari Chaudhary was admittedly in judicial custody for the period 28.10.1968 to 18.09.1971 and, therefore, the appellant could not have established her claim that she was adopted by late Raj Kumari Chaudhary in the year 1969. The said petition filed by respondent No. 3 gave rise to Misc. Case No. 03 of 2005, which was dismissed by the learned court below *in limine* by an order dated 15.06.2005. This Court by an order, dated 19.11.2006, on an appeal, set-aside the said order, dated 15.06.2005, and remanded the matter back to the learned court below for passing an appropriate order. In pursuance thereof, learned court below passed an order, dated 13.04.2007, directing the Office to file a complaint against the appellant for the offence punishable under Section 465 of the IPC, which order is being assailed in the present appeal.

5. By an order, dated 18.02.2008, passed in this appeal, operation of the impugned order, dated



13.04.2007, was directed to be stayed. Thereafter, an application, bearing I.A. No. 1008 of 2016, has been filed on behalf of respondent Nos. 2 and 3 for vacating the interim order of stay granted by this Court vide order dated 18.02.2008.

6. I have, however, with the consent of the parties, considered it proper to dispose of the appeal itself on merits, particularly in view of the fact that this appeal has remained pending for more than nine (9) years.

7. Learned senior counsel, Mr. Krishna Prasad Singh, appearing on behalf of the appellant, has submitted that Misc. Appeal No. 317 of 2005 and Misc. Appeal No. 241 of 2005 were pending before this court, which arose out of said Succession Case No. 05 of 1993 when the impugned order, under Section 340 of the Code, for lodging of a complaint case was made by the learned court below. He has submitted that keeping in view the nature of dispute between the parties, the learned court below ought to have waited for final adjudication on Misc. Appeal No. 317 of 2005 and Misc. Appeal No. 241 of 2005 (Ranjan Kumar Raman & Ors. Vs. Renu Kumari).

8. Learned senior counsel, Mr. Krishna Muarari, appearing on behalf of respondent Nos. 2 and 3, on the other hand, has submitted that there is absolutely no legal



infirmity in the impugned order passed by the learned court below, wherein, on adduction of evidences at the enquiry, learned court below arrived at the conclusion that an offence punishable under Section 465 of IPC had been committed in relation to a proceeding before the said Court. He has submitted that decision in succession cases and subsequent miscellaneous appeals will have no bearing on the order passed by the learned court below, since the same is confined to the alleged interpolation made by the appellant in the Court records.

9. Before I consider the rival submissions made on behalf of the appellant and respondent Nos. 2 and 3, I must not fail to mention certain developments in the concerned succession cases and the miscellaneous appeals.

10. Succession Case No. 05 of 1992, preferred by the appellant, was allowed by the learned court below by an order dated 13.04.2005. The appeals, preferred against the said order, dated 13.04.2005, came to be dismissed by this Court by an order dated 24.11.2008. However, the fact remains that there was no adjudication as to whether any interpolation in the Court records was made by the appellant and the year "1969", as mentioned in the complaint, was altered as the year "1968".

11. On perusal of the impugned order, I find



that the learned court below also arrived at a definite conclusion that the appellant made interpolation in the petition of Succession Case No. 05 of 1992 in order to support her claim that late Raj Kumari Chaudhary had adopted her in the year "1968". The said finding is based on evidence, which cannot be said to be inadmissible in law. I am not into the question as to whether the claim of the appellant that she was adopted in the year "1968" or not by said late Raj Kumari Chaudhary. The only question is as to whether the interpolation was done by her in the Court records or not. Learned court below, in the records of which the interpolation was alleged to have been made, is of the *prima facie* view that such interpolation had been made by the appellant. In such situation, if he has directed for filing of a complaint, under Section 340 of the Code, I do not find any infirmity in the same.

12. The impugned order, dated 13.04.2007, passed by learned Additional Sessions Judge, Fast Track Court No.-2, in Misc. Case No. 3 of 2005, does not require any interference by this Court.

13. This appeal is, accordingly, dismissed.

14. However, I am making it clear that the present judgment and order cannot and shall have no bearing on any findings recorded by the learned court below



in Succession Case No. 05 of 1992 or Succession Case No. 05 of 1993 and subsequent judgments of this Court passed in Misc. Appeal No. 317 of 2005 and Misc. Appeal No. 241 of 2005 including the finding that the adoption was made in the year “1968”.

15. The interim order(s) stands vacated. I.A. No. 1008 of 2016 stands disposed of.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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