

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.1136 of 2014

Arising Out of PS.Case No. -2370 Year- 2009 Thana -BHAGALPUR COMPLAINT CASE District-
BHAGALPUR

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Amar Nath Goenka, S/O Late Chedi Lal Goenka, R/O Mohalla M.P.
Dwivedi Road, P/S Kotwali, District- Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar
2. Narayan Prasad Goenka, S/O Late Laxmi Naryana Goenka, R/O 4B,
903, Wispring, Palm, Lokhandwala, Township, Kandiwali, East
Mumbai - 400 101, Presently Residing At Mohalla Chunihari Tola, R.N.
Agrawal Road, P/S Kotwali, District- Bhagalpur.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Gautam Kumar Kejriwal
For the Opposite Party/s : Mr. Anant Kumar, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**
ORAL ORDER

7 05-12-2016 Heard learned counsel for the petitioner, learned

counsel appearing on behalf of O.P. No.2 and learned A.P.P. for

the State.

This application, under Section 482 of the Code of
Criminal Procedure, has been filed on behalf of the petitioner for
quashing the order dated 09.12.2009 passed in Complaint Case
No. 2370 of 2009, whereby the Chief Judicial Magistrate,
Bhagalpur summoned the petitioner Amar Nath Goenka and one
Shashi Goenka under Section 204 of the Code of Criminal
Procedure finding prima facie case under Sections 406 and 420 of



the Indian Penal Code.

The facts, leading to this application, are that O.P. No. 2 filed Complaint Case No. 2370 of 2009 against the petitioner and his wife Shashi Goenka with contention that his father Late Chedi Lal Goenka had four sons and two daughters, namely, (1) Amarnath Goenka (Petitioner), (2) Vishnu Goenka, (3) Krishna Kumar Goenka (4) Narayan Prasad Goenka (Opposite Party No.2), (5) Smt. Shyama Agrawal and (6) Smt. Parwati Jairam, respectively. The Opposite Party No.2 Narayan Prasad Goenka was adopted as son by Late Laxmi Narayan Goenka, uncle of his father Late Chedi Lal Goenka. A firm, which was established in the year 1986 in the name of "Style" was being run and managed by accused-petitioner Amarnath Goenka in which he and Bimla Devi, wife of Late Chedi Lal Goenka were the partners. In the year 1998, Late Chedi Lal Goenka partitioned the property in the family without taking his consent and signature on the partition deed. Thereafter, accused-petitioner Amarnath Goenka and Sashi Goenka, under conspiracy, got prepared paper regarding the firm in their names, but the firm is still in the name of Style in Income Tax and Sales Tax departments. Chedi Lal Goenka died on 19.12.2008 then he came at Bhagalpur and came to know about forgery committed



by the accused/petitioner and his wife accused Shashi Goenka. Thereafter, he got power of attorney from other partners on 05.01.2009 and sent legal notices on 08.01.2009 and 10.01.2009 to the accused, but they did not give reply to the notices and accused-petition filed Sanha on 07.02.2009 in the Court of C.J.M., Bhagalpur leveling false allegation against him. As such, the accused-petitioner and Sashi Goenka under conspiracy got prepared forged documents in respect to firm Style and Holding No. 203/204, Khasra No. 256 situated at Mahabir Prasad Dwibedi Road.

On going through the allegation as made in the complaint petition of O.P. No. 2 the dispute appears to be of pure civil in nature. As such, summoning the accused petitioner through the impugned order in complaint case No. 2370 of 2009 filed by O.P. No. 2 amount to abuse of the process of the court. Accordingly, this application is allowed and the impugned order dated 09.12.2009 is hereby quashed.

(Rajendra Kumar Mishra, J)

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