

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3214 of 2014

Arising Out of PS.Case No. -70 Year- 2012 Thana -BUXAR District- BUXAR

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Ramchandra Pathak S/o Late Jang Bahadur Pathak Resident of Village Pandey Patti, P.S. Buxar (M), District Buxar, Presently Residing At Kaseem Para, Medical Industrial Area, Buxar, P.S. Buxar (T), District Buxar.

.... Petitioner

Versus

1. The State of Bihar
2. Rudra Narayan Pathak S/o Late Jang Bahadur Pathak Resident of Village Pandey Patti, P.S. Buxar (M), District Buxar.

.... Opposite Party

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Appearance :

For the Petitioner	:	Mr. Rana Ishwar Chandra, Advocate
For the State	:	Mr. Narendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 22-09-2017

Heard learned counsel for the petitioner, learned Additional Public Prosecutor for the State as well as learned counsel appearing on behalf of the opposite party no.2.

2. The petitioner seeks quashing of cognizance order dated 08.07.2013, passed by learned Chief Judicial Magistrate, Buxar in Buxar (T) P.S. Case No.70 of 2012 thereby taking cognizance of the offence under Sections 420, 467, 468 and 471 of the Indian Penal Code.

3. Learned counsel for the petitioner submits that the allegation is that the petitioner created a forged partition deed on the basis of compromise in between the parties and filed Title Suit No.252 of 2005 which is sub-judice before the court, so the entire dispute relates to civil in nature for which civil proceeding is already pending. Contrary to that, the learned counsel appearing on behalf of opposite party no.2



submits that forged partition deed has been brought in existence and the complainant came to know about it after filing of the same in the court, therefore, this case was lodged and police investigated the matter and the so called attesting witnesses on the partition deed have denied to have signed over the document, so *prima facie* case is made out against the accused persons moreover completing the investigation police submitted charge-sheet.

4. Having considered rival submissions, the Court finds that the allegation is that a forged partition deed has been created by the accused persons for using the same in a civil proceeding. The police has investigated the matter and *prima facie* found the allegation true as the attesting witnesses examined during investigation denied to have signed any such document, so *prima facie* a case of creating forged document is made out however, correctness of the allegation has to be decided on the basis of the evidence to be led at trial of the case but simply pendency of title suit for partition does not exclude launching of criminal prosecution. The Apex Court in the case of M/s. Medchl Chemicals and Pharma Pvt. Ltd. v. M/s. Biological E. Ltd. Reported in AIR 2000 SC 1869 has held as follows:

“Both criminal law and civil law remedy can be pursued in diverse situations. As a matter of fact “they are not mutually exclusive but clearly co-extensive and essentially differ in their content and consequence. The object of criminal law is to punish an offender who commits an offence against a person, property or the State for which the accused, on proof of the offence, is deprived of his



liberty and in some cases even his life. This does not, however, affect civil remedies at all for suing the wrongdoer in cases like arson, accidents etc. It is anathema to suppose that when a civil remedy is available, a criminal prosecution is completely barred. The two types of actions are quite different in content, scope and impart”

5. So, considering the factual aspect of the matter in present case the issue involved does not rule out criminal prosecution, however it is made clear that any observation made therein is no expressions on the merit of the case rather only quality of evidence will determine merit of the case in trial.

6. Thus finding no merit in the quashing application, it stands dismissed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
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