

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19156 of 2014

Arising Out of PS.Case No. -219 Year- 2012 Thana -CHAPRA CITY District- SARAN

- =====
1. Omkar Nath Mishra
 2. Murlidhar Mishra Both Sons of Late Nagendra Nath Mishra Both R/o village - Birsa Bathuan, P.S.- Fulwaria, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar
2. Grindra Nath Mishra, Son of Late Kamla Kant Mishra, Resident of Village Birsa Bathua, P.S. Phulwaria, District Gopalganj.

.... Opposite Party/s

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Appearance :

For the Petitioners	:	Mr. Naresh Dikshit, Advocate
For the State	:	Mr. Abhay Kumar-I, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 09-08-2017

Heard learned counsel for the petitioners, learned APP for the State as well as learned counsel appearing on behalf of opposite party no.2.

2. The present quashing application is filed by the petitioners under Section 482 Cr.P.C., 1973 seeking quashing of order dated 16.03.2014, passed by learned Chief Judicial Magistrate, Saran at Chapra in Trial No.4385 of 2014, arising out of Chapra Town P.S. Case No.219 of 2012 whereby he has taken cognizance of the offence under Sections 420/467/468/471/472/120(B)/34 of the Indian Penal Code.

3. A brief fact as stated in the First Information Report lodged by District Magistrate, Saran at Chapra is that he received



several complaints from individuals and got it enquired from the Deputy Registrar of Saran at Chapra with regard to committing forgery in the registered documents. The allegation against the petitioners is that on the complaint filed by Grindra Nath Mishra, opposite party no.2, enquiry was also made in that context by the concerned officials and it was found that a forged deed was created by the accused persons in connivance with other personnel of the registry office. On conclusion of investigation police has also submitted charge sheet against all accused persons.

4. It is submitted by learned counsel for the petitioners that already a Partition Title Suit No.320 of 2009 is sub-judice in the court of Sub-Judge-I, Gopalganj and the land in question is also the subject matter, so the dispute is predominantly civil in nature but later on this criminal case is filed to put pressure to the petitioners.

5. However, the learned counsel appearing on behalf of opposite party no.2 submits that the opposite party no.2 only filed a complaint with regard to creation of a forged deed before the District Magistrate thereafter enquiry was conducted on the instruction of the District Magistrate and *prima facie* a case of bringing on forged deed of gift in the registry office was found, accordingly case was instituted and the police after investigation finding the case true has submitted charge-sheet. It is also submitted that one of the co-accused of this



case Shambhu Nath Mishra earlier had moved a quashing application before this Court by filing Cr. Misc. No.1559 of 2014 and the same was dismissed by order dated 29.06.2017 and cases of petitioners of the present application stand on similar footing.

6. Having considered the rival submissions and on perusal of records, this Court is of the view that in appropriate cases relating to offences against property civil proceeding as well as criminal proceeding both may go together if such case is made out. In the present case there is allegation of bringing into existence a forged deed of gift and as per the allegation it is a criminal offence so finding no merit, this quashing application stands dismissed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
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