

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40533 of 2013

Arising Out of PS.Case No. -239 Year- 2007 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

- =====
1. Shashikant Pandey, Son of Late Ramkamkhya Pandey, R/O Village-Indragachhi, P.S.-Sangrampur, District-East Champaran
 2. Smt Rubi Devi @ Rubi Devi, Wife of Shashikant Pandey, R/O Village-Indragachhi, P.S.-Sangrampur, District-East Champaran

.... Petitioners

Versus

1. The State Of Bihar
2. Shri Narayan Pandey, Son of Late Ramkamkhya Pandey, R/O Village & P.O.-Indragachhi, P.S.-Sangrampur, District-East Champaran (Motihari)

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Virendra Kuar, Advocate

For the Opposite Parties : Mr. C. Jawahar (APP)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

6 07-04-2017 This Criminal Miscellaneous has been filed for quashing the order dated 22.04.2008 passed by the Additional Sessions Judge-cum-F.T.C.-I, Motihari, in Criminal Revision No. 310 of 2007 whereby and whereunder Criminal Revision filed by the petitioners against the order dated 04.06.2007 passed by Sri Raj Kumar, Judicial Magistrate, Motihari, whereby and whereunder he has taken cognizance for the offence under Sections 420, 467 and 468 of the Indian Penal Code in Inquiry No. 115 of 2007 arising out of Complaint Case C-239 of 2007, was dismissed.

Heard the learned counsel for the petitioners and learned A.P.P for the State. The opposite party no. 2 inspite of



service of notice has not appeared.

As per the complaint petition, the father of the complainant executed deed of gift in favour of petitioner no.2 Smt. Rubi Devi and lands were joint and thereafter prepared affidavit showing partition and, as such, the petitioners being in collusion and conspiracy have committed forgery. From perusal of the complaint petition, it reveals that dispute is purely of civil nature and the complainant has filed partition suit also. Whether the deed of gift is genuine or not it cannot be adjudged in a criminal Court and, as such, the order dated 22.04.2008 dismissing the revision and the order dated 04.06.2007 passed by Sri Raj Kumar, the then Judicial Magistrate, Motihari taking cognizance for the offences under Sections 420, 467 and 468 of the Indian Penal Code in Complaint Case No. C-239 of 2007 appears not correct, proper and legal, accordingly, those orders are hereby quashed at this stage.

In the result, this Criminal Miscellaneous is hereby allowed.

(Jitendra Mohan Sharma, J.)

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