

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18297 of 2013

Arising Out of PS.Case No. -2200 Year- 2012 Thana -BHAGALPUR COMPLAINT CASE District-
BHAGALPUR

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1. Hari Shankar Mishra S/O Upendra Kumar Mishra Resident Of Village-
Giridharpur, P.S.- Bath, District- Bhagalpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. Bipin Bihari Mishra S/O Late Karelal Mishra R/O Giridharpur, P.S.- Bath,
District- Bhagalpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s :

For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 20-04-2017

Heard Mr. Pandey Sr. Advocate for the petitioner,
Mr. Rajiv Ranjan Singh for the complainant and the State.

2. The petitioner is the purchaser of land from one
of the co-accused(s) who has defined share in the property of the
family. He is aggrieved by the order dated 15.01.2013 passed by the
learned Judicial Magistrate Ist Class, Bhagalpur in complaint case
no. 2200 of 2012 whereby, on a consideration of the materials
adduced in course of enquiry into the complaint lodged by opposite
party no.2, cognizance of the offence under Sections 406, 417 and
418 of the IPC was taken against the petitioner besides the vendor of
the land and the identifier of the sale deed.

3. There is no dispute between the parties that the



vendor is the widow of the full brother of the complainant. It is submitted that being the widow of the brother of the complainant, she had right to sale the land. In order to reinforce the same, he has drawn attention of the Court to the statement made by the complainant on S.A.. However, the Court is not much concerned about the same in view of the facts which have glared on the records and emphasized by the learned counsel for the petitioner. It has been submitted that the petitioner herein is the bonafide purchaser of the land. He has no concern with the dispute relating to the property in the family. There is no allegation that under any conspiracy such sale deed was obtained by the petitioner from the widow of the brother of the complainant.

4. The facts noticed hereinabove clearly establish that the complaint relates to a dispute between the family members in relation to the land left behind by the parents of the complainant. The petitioner is the bonafide purchaser of the land through a sale deed. The continuance of the proceeding on the strength of the allegation leveled in the complaint against him is nothing but an abuse of the process of the Court. The Court invokes inherent jurisdiction to guard against such misuse of the process of the Court and to secure the ends of justice.

5. For the reasons noted above, the present application is allowed. The order dated 15.01.2013, so far it relates to



the petitioner, whereby cognizance was taken by the learned Judicial Magistrate Ist Class, Bhagalpur in Complaint Case No. 2200 of 2012, is quashed.

(Kishore Kumar Mandal, J)

Shyam/-

AFR/NAFR	NAFR
CAV DATE	N/A
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