

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50835 of 2013

Arising Out of PS.Case No. -1797 Year- 2011 Thana -SAHARSA COMPLAINT CASE District-
SAHARSA

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Madan Prasad Singh S/O Late Hari Narayan Prasad Singh Resident Of Village-
Saroja, P.S.- Simri Bakhtiarapur, District- Saharsa

.... Petitioner/s

Versus

1. The State Of Bihar
2. Baijnath Yadav S/O Pulkit Yadav Resident Of Village- Kathdumar, P.S.- Simri
Bakhtiarapur, District- Saharsa

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjeet Kumar Singh, Advocate
For the State	:	Mr. Damoder Prasad Tiwary, APP
For O.P. No.2	:	Mr. Anil Kumar Mukund, Advocate
		Mr. Subesh Sharma, Advocate

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

Date: 24-05-2017

Heard learned counsel for the petitioner, learned
counsel for the opposite party no.2 and the learned A.P.P. for the
State.

2. Petitioner under Section 482 of the Code of Criminal
Procedure seeks quashing of the order dated 16.07.2012 passed in
Complaint Case No. 1797 C of 2011 by the learned Judicial
Magistrate, Saharsa whereby cognizance has been taken against the
petitioner under Sections 417, 465 and 468 of the Indian Penal Code
while issuing processes and summons.

3. The genesis of the complaint case is that the



complainant wanted to purchase land and the petitioner being in need of money sold 2 bigha 2 katha (183.372 decimals) of land on 06.09.2011 for a consideration money of Rs. 4,22,000/-, which was duly registered on 06.09.2011. Subsequently, he came to know that part of the land measuring an area of 12 katha 3 dhurs was sold to Lakru Yadav way back on 23.03.1998. Hence, complaint case was filed before the learned Chief Judicial Magistrate, Saharsa for the offence under Sections 406, 419, 420, 467, 468 and 471 of the Indian Penal Code but the learned Magistrate has taken cognizance under Sections 417, 465 and 468 of the Indian Penal Code only.

4. It has been submitted by the learned counsel for the petitioner that the dispute is purely civil in nature and in the garb of criminality, prosecution has been launched against the petitioner as the matter relates to property dispute and sale and purchase of land, hence, order of cognizance may be quashed.

5. However, learned counsel appearing on behalf of opposite party no.2 vehemently opposes the prayer of the petitioner and submits that the petitioner had sold a piece and parcel of land to him, but part of the said land was sold years ago in the year 1998 to another person, hence, a case under Sections 417, 465 and 468 of the Indian Penal Code is made out.

6. Having considered the rival submissions of the



parties, I find that the ingredients of a cognizable offence are made out, hence, the order taking cognizance dated 16.07.2012 needs no interference.

7. The application is dismissed.

(Nilu Agrawal, J.)

Arjun/-

AFR/NAFR	NAFR
CAV DATE	NA
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