

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15595 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- NAWADA

- =====
1. Surendra Prasad S/O Late Saryug Prasad Mahto Resident Of Village- Anandpura, P.S.- Nawadah, District- Nawadah
 2. Anup Kumar S/O Surendra Prasad Resident Of Village- Anandpura, P.S.- Nawadah, District- Nawadah
 3. Ravindra Kumar S/O Late Rajendra Prasad Resident Of Village- Anandpura, P.S.- Nawadah, District- Nawadah

.... Petitioner/s

Versus

1. The State Of Bihar
2. Vijay Chouhan S/O Bhubhaneshwar Chouhan Resident Of Village- Shazpura, P.S.- Kadirganj, District- Nawadah

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar, Advocate Mr. Sanjeet Kumar, Advocate Mr. Raj Kamal, Advocate
For the Opposite Party/s	:	Mr. Pramod Kumar Verma, Advocate Mr. Sunil Kumar Pandey, APP

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 07-09-2017

Heard learned counsel for the parties.

2. This application under Section 482 of the Code of Criminal Procedure has been preferred by some of the accused persons of Complaint Case No.10 of 2010, challenging the order of cognizance and issuance of process dated 12.08.2010 whereby the learned Court-below has taken cognizance for the offences under Sections 467, 468, 420 and 120B of the Indian Penal Code.

3. Contention of the petitioner is that a bare perusal of the complaint petition would reveal that no case of cheating or



creation of forged document has been disclosed against the petitioners.

4. According to allegation in the complaint petition one Babulal Chauhan, who is agnate of the complainant, sold away the joint family property in favour of petitioner Anup Kumar, who is son of petitioner Surendra Prasad. The sale deed was executed by Babulal Chauhan allegedly after being intoxicated by the petitioners.

5. Submission of the learned counsel for the petitioner is that the law is well settled that a transferee of the property cannot get a better title than his transferor had, therefore, even if any one is cheated in the transaction, they are the petitioners, who purchased the property for consideration. Moreover, the vendor of the petitioner has not alleged that he was put in a condition, by the petitioners, wherein he was not in a position to understand the nature of the transaction he was doing. He further submits that there is no dispute that the vendor had also share in the said property.

7. A bare perusal of the complaint would reveal that there is no allegation of creation of any forged document, there is no allegation of any cheating to the complainant, therefore, criminal prosecution of the petitioner is apparently an abuse of the process of



the Court.

8. Accordingly, the impugned order as well as the entire criminal prosecution in connection with Complaint Case No.10 of 2010, pending in the Court of Mr. Mithlesh Kumar, learned Judicial Magistrate, 1st Class, Nawadah, is hereby quashed and application stands allowed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.09.2017
Transmission Date	09.09.2017

