

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.35947 of 2014

Arising Out of P.S.Case No. -79 Year- 2012 Thana -COMPLAINT CASE District- BANKA

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1. Suresh Prasad Sah S/o Late Sohan Lal Sah R/o Mahda, P.S.- Rajaun, District - Banka.
 2. Balram Prasad Sah S/o - Late Bhudeo Sah R/o- Mahda, P.S.- Rajaun, District - Banka.
 3. Rajendra Prasad Sah, S/o Late Jagdish Sah, Deed writer, Registrar's Office, Banka, P.S.- Banka, District- Banka.

.... Petitioners

Versus

1. The State of Bihar
2. Roop Narain Mandal, S/o Late Jhoopri Mandal, Resident of Mahda, P.S. Rajaun, District - Banka.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Praveen Kumar, Advocate
Mr. Krishna Mohan, Advocate
For the Opposite Parties : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 04-10-2017

This application under Section 482 of the Cr.P.C. has been filed to quash the order dated 02.04.2014 passed by Judicial Magistrate, Ist Class, Banka in Complaint Case No.79 of 2012 whereby and whereunder the learned Magistrate finding prima-facie case for the offence under Sections 323, 504, 406 and 420 of the IPC summoned the petitioners to face the trial.

2. The Opposite Party No.2 filed a complaint case on the file of CJM alleging inter-alia that he entered into an agreement to sell his land for a consideration of Rs.37,000/-. As per contract, he



examined and registered a deed of agreement on 30.12.1987 after receiving an earnest money of Rs.30,000/-. As per agreement the sale deed was agreed to be executed by 30.12.1989 after receipt of balance of consideration money of Rs.7,000/-. The petitioner no.1 neither paid the balance of consideration money nor get the sale deed executed. The complainant subsequently learnt that the petitioners in collusion with each other brought into existence two registered sale deeds dated 18.04.1987 and 08.03.1991 purported to be executed by the complainant and his father. The complainant or his father neither executed the aforesaid two sale deeds nor admitted its' registered. The complainant convened a Panchayati in presence of villagers against the fraud and forgery committed by the petitioners whereupon the petitioners abused and assaulted the complainant.

3. Heard the learned counsel for the petitioners and learned APP for the State.

4. A supplementary affidavit has been filed today on behalf of the petitioners. From perusal of documents placed on record, it appears that there is a bonafide land dispute between the parties. The complainant has alleged that the petitioners in collusion with each other brought into existence two registered sale deeds. The petitioners on the other hand asserts that the complainant and his father after receipt of valuable consideration had executed the aforesaid two sale



deeds in favour of petitioner no.1. The petitioner no.2 is witness to the said sale deeds and the petitioner no.3 happens to be a deed writer. It further appears that the complainant has filed a Title Suit No.7 of 2012 against the petitioner no.1 for declaration of aforesaid two sale deeds as forged and fabricated document and also for declaration of his title. The son of the complainant had filed a case no.121 of 2011-12 before the Deputy Collector Land Reforms, Banka which has been dismissed as per order dated 11.02.2012 observing that the matter relates to declaration of title on the basis of two registered sale deeds. The petitioner no.1 has filed written statement in Title Suit No.07 of 2012 denying the allegation of fraud and forgery. The dispute between the parties appears purely a civil dispute for which a title suit is also pending. In face of pending of civil suit the criminal prosecution of the petitioners appears misuse of process of the Court.

5. In view of above discussions, the order dated 02.04.2014 passed by court below in Complaint Case No.79 of 2012 as well as criminal prosecution of the petitioners is quashed and this application is allowed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	10.10.2017
Transmission Date	10.10.2017

