

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8188 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- BHABHUA (KAIMUR)

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1. Lal Saheb Choubey S/O Late Ram Darash Choubey R/O Vill- Bhadaula P.S- Kudra Distt- Kaimoor.
 2. Anil Kumar Choubey S/O Lal Saheb Choubey R/O Vill- Bhadaula P.S- Kudra Distt- Kaimoor.
 3. Kailash Pandey S/O Late Devta Charan Pandey R/O Vill- Bhagwanpur, P.S- Bhagwanpur, Distt- Kaimoor
 4. Nagina Pandey S/O Late Bachganu Pandey R/O Vill- Bhagwanpur, P.S- Bhagwanpur, Distt- Kaimoor

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyendra Pandey

For the Opposite Party/s : Mr. Nirmala Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 30-11-2017

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

This application has been filed for quashing the order dated 19.04.2011 passed by the learned Judicial Magistrate, 1st Class, Bhabhua by which he found prima facie case against the petitioners and other accused persons for offence under Sections 466, 467 and 120(B) of the Indian Penal Code and the order dated 03.09.2011 passed in Revision Case No. 60 of 2011 by the learned Sessions Judge, Kaimoor at Bhabhua, by which revision application filed by petitioners was dismissed.

Counsel for the petitioners has submitted, that the learned Magistrate has passed order dated 19.04.2011 merely on the basis of



oral evidence. The petitioners are not the custodian of the land records. Title Suit No. 178 of 2007 is also pending between the parties. Counsel for the petitioners has further submitted that Register II is the Government document and the same has been prepared on the basis of R.S. Khatiyani. The entry in the register-II has been made on the basis of R.S. Khatiyani and Chakbandi. Khatiyani, which has been prepared jointly in the name of the complainant and the petitioners. The same has also been approved by the Karamchari of the Block.

The learned counsel for the Opposite Party No. 2 has submitted that the petitioner had earlier filed Criminal Revision No. 60 of 2011 against the order passed by the learned Magistrate which was dismissed. The learned Magistrate is only required to see the prima facie case at the time of holding enquiry.

From the order of the learned Magistrate passed on 19.04.2011, this Court finds, that the complainant and one of the witnesses have supported the case during enquiry. The learned Magistrate has mentioned in aforesaid order that complainant in his S.A. has stated that receipt with regard to 1 acre 17 Decimal of land is being issued in his name for last 25 years. The accused persons got their name incorporated in Register-II after deleting the name of complainant. The court below after holding enquiry found prima facie case against the petitioners for offence under Sections 466, 467, 468



and 120(B) of the Indian Penal Code. Thereafter, the petitioners have preferred Criminal Revision No. 60 of 2011 against the order of learned Magistrate, which was dismissed by the learned Sessions Judge on 20.09.2011 by speaking order.

The learned Sessions Judge has found no illegality in the order of learned Magistrate.

The learned Magistrate is only required to see prima facie case at the time of holding enquiry. This quashing application has been filed by the petitioners in the garb of second revision application.

Therefore, this Court does not find any illegality in the orders passed by the learned Magistrate as well as the learned Sessions Judge. This application is accordingly dismissed.

The petitioners are given liberty to raise all the points as raised in this petition at the time of framing of charge, which shall be considered and disposed off by the court below in accordance with law without being prejudiced by order of this Court.

(Sanjay Priya, J)

ajay gupta/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	14.12.2017
Transmission Date	14.12.2017

