

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17435 of 2012

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

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1. Manohar Yadav, son of late Harday Yadav,
 2. Rabindra Yaav, son of ManoharYadav,
 3. Amrendra Yadav, son of Manohar Yadav, all resident of Bhatrandha Tola Ghopa, P.S. & District- Madhepura.
 4. Birendra Yadav, son of late Sahdeo Yadav, resident of village- Bhatrandha Tola Orahi, P.S. & District- Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar &
2. Laxmi Yadav, son of Harday Yadav, resident of Bhatrandha Tola Ghopa, P.S. & District- Madhepura.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dinesh Prasad Verma, Advocate
For the Opposite Party No.1: Mr. Ram Sewak Choudhary, APP
For the Opposite Party No.2: Mr. Ranjit Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

CAV JUDGMENT

Date: 01-08-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 13.02.2012 passed by the Sub-Divisional Judicial Magistrate, Madhepura, in Complaint Case No.C-168 of 2003 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners for the offence under Section(s) 420, 120-B, 468 Indian Penal Code.

2. Case of the complainant/informant, in brief, is that he had four sons. Accused No.1, Manohar Yadav, is one of his sons. Accused Nos.2 and 3 are grand sons of the complainant/informant and



sons of petitioner No.1 and accused No.4 is brother-in-law of Accused No1, Manohar Yadav. They took the complainant/informant on 05.07.2001 to Madhepura for better treatment and in the meantime the complainant/informant suffered pain in stomach and the accused persons got thumb impression of the complainant on several stamp papers on the plea that he will prepare the paper for partition amongst the brothers. Later on, the complainant/informant learnt that the petitioner No.1 had got three sale deed executed in favour of his two sons, namely, Rabindra and Amrendra and brother-in-law of petitioner No.1, namely, Birendra had become identifier on the aforesaid sale deeds. Other sons of the complainant/informant raised objection on 28.06.2001 on which the petitioners abused them and also became ready to assault. The Court below after holding enquiry found *prima facie* case against the petitioners for the offence under Section(s) 420, 120-B, 468 Indian Penal Code.

3. Learned counsel for the Petitioners submits that the allegation made by the complainant/informant in the Complaint Petition is purely a civil dispute, which can be decided only in a civil suit. The petitioners got sale deed executed with respect to the land, which was in their share. The complainant/informant earlier filed Complaint Case No.348 of 2001 against the petitioner for the same cause of action. The learned Chief Judicial Magistrate, Madhepura, had sent the aforesaid



complaint to the police and the police registered Madhepura P.S. Case No.183 of 2001 for the offence under Section(s) 419, 420, 407, 468, 474, 120-B, 504 Indian Penal Code. The police after investigation submitted Final Form in that case on 30.07.2002 holding the dispute as civil in nature and thereafter the learned Chief Judicial Magistrate accepted the Final Form submitted by the police.

4. Elder son on of the Informant/Complainant, namely, Laxmi Yadav, upon the death of his father had filed a Protest Petition in course of investigation and on the basis of the Protest Petition, an enquiry was held by the learned Magistrate under Section 202 Cr. P.C. and the impugned order has been passed.

5. The Opposite Party No.2 has appeared by filing Vakalatnama.

6. The learned APP has submitted that there is no illegality in the impugned order.

7. The complainant/informant has alleged in the Complaint Petition that the petitioner No.1 got executed three sale deeds in favour of his two sons i.e. Petitioner Nos. 2 and 3 from the complainant/informant and the petitioner No.4 became identifier over the aforesaid sale deeds on the pretext of preparing the document of partition by taking signature of the complainant/informant on blank stamp paper. The complainant/informant has alleged that the accused



persons in conspiracy with each other have prepared forged and fabricated sale deeds.

8. In this manner, from the nature of allegation in the Complaint Petition, this Court finds that it is a case of civil dispute and the Criminal Court has no jurisdiction to decide whether the sale deeds allegedly executed by the complainant/informant in favour of the petitioner Nos.2 and 3 are forged and fabricated and petitioner No.1 got the same executed in conspiracy with other accused persons on the pretext of preparing the document of partition by taking signature of the complainant/informant on the blank stamp paper.

9. This Court in the case of ***Radha Mohan Paul Vs. State of Bihar*** reported in ***2013 (2) PLJR 287*** has held that Criminal Court has no jurisdiction to decide the share of the parties.

10. In view of such, this Court on the basis of allegation in the Complaint Petition finds no specific ingredients of any criminal offence against the petitioners in the nature of dispute as alleged in the Complaint Petition. Dispute is purely civil in nature and the Criminal Court cannot decide that the petitioner No.1 got sale deeds executed by the complainant/informant in favour of the petitioner Nos.2 and 3 by hatching conspiracy with each other and the same are forged and fabricated documents.

11. Therefore, the impugned order dated 13.02.2012



passed by the Sub-Divisional Judicial Magistrate, Madhepura, in Complaint Case No.C-168 of 2003 along with entire criminal proceeding against the petitioners is hereby quashed.

12. This application is, accordingly, allowed.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	AFR
CAV DATE	30-06-2017
Uploading Date	01-08-2017
Transmission Date	01-08-2017

