

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40011 of 2014

Arising Out of PS. Case No.-46 Year-2007 Thana- JAMUI District- Jamui

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1. Satrughan Burnwal Son of Luxami Prasad Burnwal Resident of Village - Tihiya, P.s. - Khojra, Dist. - Jamui
 2. Bindu Mala Devi Wife of Gopal Prasad Gupta Resident of Village - Sirchand Nawada, P.S. and District - Jamui
 3. Raj Kumari Devi Wife of Late Prakash Tanti
 4. Munna Kumar Tanti Son of Late Prakash Tanti Both resident of village - Krishnapatti (Mahisauri), P.S. and District - Jamui
 5. Jago Mandal Son of Mahabir Mandal Resident of Village - Satgama, P.S. and District - Jamui
 6. Anil Tanti @ Anil Kumar Tanti Son of Jagdish Tanti Resident of Village - Mahisauri, Krishnapatti, P.S. and District - Jamui
 7. Jai Kishore Prasad Son of Late Chandi Prasad Resident of Village - Indpey, P.S. and District - Jamui

... .. Petitioner/s

Versus

1. The State of Bihar
2. Radhey Tanti Son of Late Govind Tanti Resident of Village - Mahisauri, P.S. and District - Jamui

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Diwakar Sinha, Adv
For the State	:	Mr. M.K.KHARE(APP)
For the O.P. No. 2	:	Mr. Prabhat Ranjan Singh, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 23-11-2017

Heard learned counsel for the parties.

This application under Section 482 of the Cr.P.C has been filed for quashing the order dated 11.07.2012 passed by the Chief Judicial Magistrate, Jamui in Jamui P.S. Case No. 46 of 2007 (G.R. No. 238 of 2007) taking cognizance for the offence punishable under Sections 419, 420, 467, 468, 471 and 120B of the Indian Penal Code



against the petitioners.

Briefly stated, the facts of the case is that informant's father had purchased the land of Khata No. 199, Khesra No. 79, Area 1 acre one decimals on 03.12.1931 of Mauza Satgama, District Jamui and came in possession over the land and died leaving behind four sons namely, Govind Tanti, Jagdish Tanti, Mohan Tanti and Baleshwar Tanti, who are alive and on partition they each acquired 26 decimals of land.

It has been further alleged that under conspiracy accused Bindumala Devi and Shatrughan Barnwal got sale deed executed by accused Raj Kumari Devi and Munna Kumar Tanti on 08.01.2007 vide sale deed nos. 158 of 2007 and 159 of 2007 for an area of 8 1/4 decimals and 4 1/4 decimals respectively and other accused have identified and witnessed execution of sale deed. It has been stated that informant has no relationship with the accused Raj Kumari Devi and Munna Kumar Tanti and the accused persons have shown the informant dead while he was alive.

Learned counsel for the petitioners has contended that they are innocent and have falsely implicated in this



case. By mistake informant had been described in the sale deed as dead but soon thereafter when they realized the mistake they immediately vide deed nos. 1078 and 1079 dated 19.0.2007 rectified the mistake before filing of the present case. Learned counsel for the petitioners has further submitted that executant of sale deed Raj Kumari Devi, Munna Kumar Tanti are also descendants and co-sharers in the said property.

On the written report filed by informant, FIR was drawn and after investigation police submitted final form on 23.01.2012 stating the case to be of civil nature and submitted closure report. The informant had also filed T.S. No. 15 of 2007 and 16 of 2007 against the petitioner nos. 1, 2, 3 and 4 on 19.02.2007. By judgment and decree dated 20.04.2012, the court of Subordinate Judge-III, Jamui, has set aside the sale deed executed by the petitioners and has held that the petitioners had no right, title and possession over the suit land to execute the sale deed and decreed the suit in favour of the informant.

On submission of final report by the police, the complainant filed a protest petition which was registered as



complaint case and after perusal of the case diary and materials collected during investigation, the court did not accept the final form submitted by the police and took cognizance of the offence against the petitioners under Sections 419, 420, 467, 468, 471 and 120B of the Indian Penal Code and issued summons to the petitioners to appear and face the trial.

The trial court after going through the contents of the FIR and statement made by witnesses and evidence collected during investigation has found that accused by misrepresentation and fraudulent act have committed forgery and as such offence against the petitioners is made out and took cognizance of the offence by order dated 11.7.2012. The trial court came to the conclusion that on the basis of FIR and materials available on record criminal offence of cheating and forgery is made out against the petitioners and thereafter took cognizance against the petitioners. Only because the informant has filed a civil suit which has been decreed in favour of informant-O.P. No. 2, criminal proceeding cannot be quashed as the allegation also constitute ingredients of criminal offence committed by



the petitioners, as such I am not inclined to interfere with the order dated 11.07.2012, at this stage.

However, the petitioners will be at liberty to raise all the issues raised before this Court as well as other issues available to them in law at subsequent stage i.e. at the time of consideration of discharge petition/framing of charge, if not already framed.

With the said observation and liberty, this petition is disposed of.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A
Uploading Date	24.11.2017
Transmission Date	24.11.2017

