

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22354 of 2013

Arising Out of PS.Case No. -168 Year- 2012 Thana -SITAMARHI COMPLAINT CASE District-
SITAMARHI

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1. Tarkeshwar Prasad Singh Son Of Late Laxmi Narayan Singh At Present Residing At Qr. No. 1291 Sector 92-A, Bokaro Steel City, District: Bokaro (Jharkhand). Resident Of Village: Barahi Jagdish, P.S.: Puranhiya, District: Sheohar

2. Ratneshwar Prasad Singh Son Of Late Laxmi Narayan Singh Resident Of Village: Barahi Jagdish, P.S.: Puranhiya, District: Sheohar

3. Nitu Singh Wife Of Ranjit Singh Resident Of Mohalla: Kailashpuri, Dumra, P.S.: Dumra, Dist. Sitamarhi

4. Barkha Kumari D/O Tarkeshwar Prasad Singh Resident Of Mohalla: Barahi Jagdish, P.S.: Puranhiya, District: Sheohar, At Present Residing At Qr. No. 1291 Sector 92-A, Bokaro Steel City, District: Bokaro (Jharkhand)

.... Petitioner/s

Versus

1. The State Of Bihar

2. Shashibala Singh Wife Of Kameshwar Singh Resident Of Village: Itwa Mahesiya, P.S.: Garkha, District: Saran, At Chapra, At Present Village: Barahi Jagdish, P.S.: Puranhiya, District: Sheohar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. Pronoti Singh (App)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

10 11-01-2017 A supplementary affidavit has been filed on behalf of the petitioners. Keep it on the record.

This is an application under Section 482 Cr.P.C. for quashing the order dated 17.08.2012 passed by Shri P.D. Mishra, Sub-divisional Judicial Magistrate, Sheohar at Sitamarhi in Complaint Case No. 168 of 2012 whereby cognizance has been taken for the offences under Sections 406, 420, 467, 468, 471, 120(B), 323 and 379 of the Indian Penal Code.

Heard learned counsel for the petitioners.



Learned counsel for the petitioners has submitted that earlier complainant has filed Complaint Case No. C-180/2001 dated 25.05.2001 under Sections 420,406, 467, 468 and 471 of the Indian Penal Code in which cognizance was taken under those sections. But later on, the matter was compromised between the parties. In the year 2009, the complainant filed Title Suit No. 94 of 2009 before Sub-Judge-1, Sitamarhi, which is still pending. It has been further submitted that with regard to the same matter, Complaint Case No. C1-5/2010 was filed by the complainant, Shashibala Singh, against the same accused persons but by order dated 19.04.2010, the learned Sub-divisional Judicial Magistrate, Sitamarhi after considering the entire matter and considering that the Title Suit is pending in which gift deed has been challenged and at the same time Complaint Case No. 180 of 2001 was filed with regard to the same matter accused persons were discharged by order dated 20.08.2004. The aforesaid order has been annexed as Annexure 4 to this application. It has further been submitted that the Complainant herself has stated that Title Suit No. 94 of 2009 is pending between the parties for the same deed of gift.

None appears on behalf of opposite party no.2.

Learned counsel for the State has appeared.

From perusal of the complaint petition as well as



Annexure 4 filed on behalf of the petitioners and the impugned order dated 17.08.2012, it appears that the learned Magistrate has taken notice of the fact that Title Suit No. 94 of 2009 is pending between the parties and photo copy of the aforesaid document was filed before the learned Magistrate. In such circumstances since Title Suit is pending between the parties, the order taking cognizance under Sections 406, 420, 467, 468, 471, 120(B), 323, 379 by the learned Sub-divisional Judicial Magistrate, Sheohar at Sitamarhi in Complaint Case No.168 of 2012 is illegal. In my opinion, for the same cause of action it is an abuse of process of law and amounts to harassment to the petitioners. Therefore, the impugned order dated 17.08.2012 passed by Shri P.D. Mishra, Sub divisional Judicial Magistrate, Sheohar at Sitamarhi in Complaint Case No. 168 of 2012 is hereby quashed.

This application is accordingly allowed.

(Sanjay Priya, J)

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