

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46845 of 2013

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

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1. Balister @ Balister Chaudhary Son Of Late Satyanarayan Yadav Resident Of Village - Ramgarhwa, P.S. - Kuchaikot, District - Gopalganj
 2. Raju Yadav @ Raju Chaudhary Son Of Ram Bichar Yadav Resident Of Village - Ramgarhwa, P.S. - Kuchaikot, District - Gopalganj
 3. Jamadar Yadav @ Jamadar Chaudhary Son Of Satyanarain Chaudhary Resident Of Village - Ramgarhwa, P.S. - Kuchaikot, District - Gopalganj
 4. Birbal Yadav Son Of Late Ramayan Yadav Resident Of Village - Ramgarhwa, P.S. - Kuchaikot, District - Gopalganj
 5. Viresh Yadav Son Of Late Ramayan Yadav Resident Of Village - Ramgarhwa, P.S. - Kuchaikot, District - Gopalganj
 6. Lootan Yadav @ Lootan Chaudhary Son Of Ram Bichar Chaudhary Resident Of Village - Ramgarhwa, P.S. - Kuchaikot, District - Gopalganj
 7. Buton Yadav @ Buton Chaudhary Son Of Ram Vidya Yadav Resident Of Village - Ramgarhwa, P.S. - Kuchaikot, District - Gopalganj

.... Petitioners

Versus

1. The State Of Bihar
2. Vijay Yadav Son of Harilal Yadav Resident of Village - Ramgarhwa, P.S. - Kuchaikot, District - Gopalganj

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Gyan Prakash, Advocate
For the State : Mr. Md. Mushtaque Alam, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 12-07-2017

The petitioners have challenged the order dated 11.9.2012 passed in Complaint Case No.1297 of 2012 whereby Judicial Magistrate Ist Class, Gopalganj has taken cognizance of the offence finding prima facie case under Sections 420, 467, 468 and 34 of the Indian Penal Code and issued summons for appearance.

2. Allegation in brief levelled by the complainant in the complaint petition is that the petitioners have brought into existence a



forged gift deed dated 12.4.1929 executed by one Most. Jiyachhi in favour of Rekha Ahir ancestor of the petitioners.

3. Learned counsel appearing on behalf of the petitioners submits that in the complaint forged letter issued by the so-called District Registry Office of Chapra is dated 11.5.2012. There is no signature at proper place only in left side bears date 11.5.2012. The petitioners verified genuineness of the deed of gift by filing a petition under R.T.I. Reply of the Public Information Officer-cum-District Registration Officer, Chapra vide Annexure-5 dated 5.3.2013 clearly reveals that aforesaid letter dated 11.5.2012 with respect to gift deed dated 12.4.1929 has not been issued by this office. It is further submitted that the petitioners applied for certified copy of the gift deed dated 12.4.1929 executed from the District Registration Office and the certified copy was issued on 9.5.1988. The petitioners came about the knowledge of the existence of a forged gift deed of the year 1976 created by the complainant's father with respect to same land. Knowing this fact the petitioners have challenged for setting aside that forged gift deed filing Title Suit No.628 of 2011 at present pending in the court of Sub Judge, Gopalganj. It is also submitted that two witnesses Sattan Sah and Sudama Chaudhary examined during the enquiry stage under Section 202 Cr.P.C. but only stated that a forged gift deed of the year 1929 has been created and its basis is the forged and fabricated letter of Registrar office. So no prima facie case of



cheating and forgery is made out.

4. None appears on behalf of opposite party no.2 though already appearance has been made.

5. The complainant's case is that the petitioners have created a forged gift deed dated 12.4.1929 executed by one Most. Jiyachhi, wife of Jogi Ahir in favour of Rekha Ahir son of Batai Ahir and this fact got revealed during the panchayati though with respect to the same land a deed of gift is said to be executed in the year 1976 by Most. Sarli in favour of the father of the complainant. The complainant has made out his case on the basis of a letter no.196 dated 11.5.2012 claimed to be issued by District Registration Office, Chapra. On perusal of the said letter itself its genuineness appears doubtful, it is a typed letter and at the top on right side date is not clear but it appears dated 4.2.2012 but at the bottom left side of the letter there is signature bearing dated 11.5.2012. The petitioners filed a petition under the R.T.I. before Public Information Officer-cum-District Sub Registrar, Saran seeking information whether letter no.196 dated 11.5.2012 with respect to gift deed dated 12.4.1929 was issued by its office or not ? The Annexure-5 annexed by the petitioners appears sterling document showing that letter no.196 dated 11.5.2012 was not issued by that office. Moreover, the petitioners have filed a Title Suit No.628 of 2011 for setting aside the gift deed dated 30th March, 1976 executed in favour of complainant's father by



one Most Sarli Devi and the same is sub-judice before the competent court of civil jurisdiction.

6. The petitioners’ side has also brought certified copy of the gift deed dated 12.4.1929 which was issued on 9.5.1988 which prima facie shows existence of the document.

7. Having considered rival submissions of the aforesaid discussion, I find that the dispute between both sides appears civil in nature claiming their respective right and title over the land in question on the basis of two deed of gifts, therefore, the criminal proceeding in this matter would be abuse of the process of the Court so criminal proceeding including the cognizance order dated 11.9.2012 in Complaint Case No.1297 of 2012 is set aside.

8. The petition stands allowed.

(Arun Kumar, J)

N.H./-

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

