

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23998 of 2017

Arising Out of PS.Case No. -36 Year- 2017 Thana -BUDDHACOLONY District- PATNA

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1. Alok Dwivedi, son of Sri Akshya Kumar Dubey.
 2. Nitu Dubey, wife of Alok Dwivedi.
Both resident of village- Sripalpur, P.S.- Koilawar, District- Bhojpur at Ara.

.... Petitioners.

Versus

1. The State of Bihar.
2. Indira Dwivedi, wife of Late Sri Niwas Dwivedi, resident of Mohalla- Utari Mandiri (Dwarika High School), P.O. G.P.O., P.S. Budha Colony, District-Patna.

.... Opposite Parties

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Appearance :

For the Petitioners : Mr.
For the State : Mr.
For the Opposite Party No.2 : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL ORDER

5 10-11-2017 Let the counter affidavit filed on behalf of the opposite party no.2 and the reply to the counter affidavit filed on behalf of the petitioners be kept on the record

Heard learned counsel for the petitioners and the learned A.P.P. for the State as also the learned counsel for the informant/opposite party no.2.

The petitioners apprehend their arrest in connection with Budha Colony P.S. Case No.36 of 2017/G.R. Case No.730 of 2017 registered under Section 406 of the Indian Penal Code.

The allegation of the informant/opposite party no.2 Indira



Dwivedi is that her husband, who was the retired Police Officer, died on 17.12.2016. Before one week of the death of her husband, she sustained fracture injury on her leg due to that reason, she is bedridden and her age is about eighty years. After the death of her husband, her two nephews, namely, Abhishek Dwivedi and Alok Dwivedi (petitioner no.1) and the wife of Alok Dwivedi (petitioner no.1) took her Samsung Mobile Set and took the possession of her Almirah in which documents, papers and ornaments were kept. The informant/opposite party no.2 further alleged that they want to capture her house because she is issueless.

Learned counsel for the petitioners submits that, in fact, Sri Niwas Dwivedi, the husband of the informant/opposite party no.2 had executed the will deed in favour of Abhishek Dwivedi, the brother of the petitioner no.1 Alok Dwivedi, in which the petitioner no.1 Alok Dwivedi was one of the witnesses. Further submission is that due to land dispute in between Sri Niwas Dwivedi, the husband of the informant/opposite party no.2 and his brother Uma Kant Dwivedi, Sri Niwas Dwivedi, the husband of the informant/opposite party no.2 executed the will deed in favour of Abhishek Dwivedi, the brother of the petitioner no.1 Alok Dwivedi, while the informant/opposite party no.2 had soft corner



to give the property to the children of her brother-in-law Uma Kant Dwivedi, due to that reason, the informant/opposite party no.2 has lodged this false case. While it is alleged in the F.I.R. that that the documents have been kept by the petitioners and Abhishek Dwivedi, the brother of the petitioner no.1, but Sri Niwas Dwivedi filed Title Partition Suit No.1772 of 2014 before the Sub Judge-I, Patna, against his nephews and nieces (defendants) mentioning therein that documents were kept by their father Uma Kant Dwivedi.

Having considered the facts and the circumstances of the case, let the petitioners, above named, in the event of their arrest or surrender by them within six weeks from today, be enlarged on bail on their furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of Smt. Ritu Kumari, Judicial Magistrate, First Class, Patna, in connection with Budha Colony P.S. Case No.36 of 2017/G.R. No.730 of 2017, subject to the conditions laid down under Section 438(2) Cr.P.C.

(Rajendra Kumar Mishra, J)

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