

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.11081 of 2014

Arising Out of PS.Case No. -545 Year- 2013 Thana -SARAN COMPLAINT CASE District-SARAN

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Jitendra Kumar @ Jitendra Kumar Singh, son of Late Chandrika Singh, resident of village- Satjora, P.S. Panapur, Dist-Saran.

.... Petitioner.

Versus

1. The State of Bihar.
2. Mosmat Chandrawati Kuwar, wife of Late Sukhdeo Tiwary, resident of village-Gopalpur, P.S. Basantpur, District-Siwan, at present residing at village-Satjora, P.S. Panapur, District-Saran.

.... Opposite Parties.

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Appearance :

For the Petitioner : M/s. R.K. Tiwary and Radheyshyam, Advocates.
For the State : Mr. Anuj Kumar Srivastav, A.P.P.
For the Opposite Party No.2 : Mr. Jitendra Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT

Date: 11-12-2017

Let the counter affidavit filed on behalf of the opposite party no.2 be kept on the record.

2. With the consent of the learned counsel for the petitioner and the learned counsel for the opposite party no.2, this application is being disposed of at the stage of admission itself.

3. Heard learned counsel for the petitioner, the learned A.P.P. for the State and also the learned counsel for the opposite party no.2.

4. This application, under Section 482 of the Code of Criminal Procedure, is directed against the order dated 25.04.2013 passed in Complaint Case No.545 of 2013/Trial No.3146 of 2014 by the court of the Judicial Magistrate, Saran, summoning the accused, named in the complaint



petition, including the petitioner, on enquiry, under Section 204 of the Code of the Criminal Procedure, finding prima facie case under Sections 420 and 120B/34 of the Indian Penal Code against them.

5. The facts, leading to this application, are that the opposite party no.2 Mosmat Chandrawati Kuwar filed Complaint Case No.545 of 2013 to the effect that 5½ months earlier, her Mayaka people, Kameshwar Tiwary, Umesh Singh and Jitendra Kumar Singh (petitioner) came to her house. At that time, she was not well. Thereafter, they asked her to accompany with them for her treatment and she was accompanied by them to Chapra and she was asked to sit at a place where several persons were present and her finger impression was taken on a blank paper as she could not sign on the paper. Thereafter, she was asked to sit on a chair for X-ray where one person was present. After that, on purchasing tonic and some tablets, she was asked by them to come at the house. On 03.03.2012, the son of the niece of the opposite party no.2 came at her house and made query about the name of persons to whom she has sold the land of Satjara then she replied that she has not sold the land to anyone. The son of the niece of the opposite party no.2 told her that Kameshwar Tiwary, Umesh Singh and Jitendra Singh (petitioner) had come at the field for ploughing and, on protest, they disclosed that they got executed the sale deeds regarding the land on 24.09.2012. Thereafter, the opposite party no.2 got managed to get the certified copy of the sale deeds on 04.03.2013 to the Registry Office, Chapra, and then came to know that Kameshwar Tiwary, Sumitra Devi, the wife of Kameshwar Tiwary, Kameshwar Singh, Anita



Devi, the wife of Kameshwar Singh, Jitendra Singh (petitioner), Umesh Singh, Shambhu Singh and Birendra Pandey under conspiracy got executed the sale deed in respect of the land showing her as vendor. While she has no interest in the said land rather the same is of her own brother Laljee Tiwary, who has executed the gift deed in favour of his daughter Kalawati Devi. As such, the sale deed dated 24.09.2012 alleged to be executed by her is forged and fabricate, which is obtained by the accused committing fraud to her.

6. Learned counsel for the petitioner submits that, in fact, the opposite party no.2 executed the sale deeds on 24.09.2012 in favour of the petitioner and his brother Umesh Singh regarding her 12 Katha land and on the sale deed her photograph was also affixed at the time of registration of sale deed and she also appeared before the Sub Registrar and admitted about execution of the sale deed. Similarly, the opposite party no.2 also executed two sale deeds on the same day in favour of Sumitra Devi, wife of Kameshar Tiwary, and Anita Devi, wife of Kameshwar Singh, but with an ulterior motive, the opposite party no.2, after six months, on the pressure of her Naati Mithun Pandey filed the present complaint case with false allegation.

7. Learned counsel for the opposite party no.2 submits that the petitioner and the other accused, named in the complaint petition, are land grabber and they have illegally occupied the several land on the basis of the forged sale deeds. Further submission is that regarding the sale deeds, which are said to be executed in favour of the petitioner and his brother Umesh Singh, and two other sale deeds, which are said to be executed in



favour of Sumitra Devi, wife of Kameshar Tiwary, and Anita Devi, wife of Kameshwar Singh, suit for cancellation of sale deeds has already been filed by the opposite party no.2.

8. From perusal of the complaint petition, it appears that the allegation of the complainant/opposite party no.2 is that she was taken by the petitioner and other accused to the Registry Office, Chapra, on pretext of her treatment where her finger impression was taken on the blank papers. Later on, the opposite party no.2 came to know that papers bearing her finger impression were used in obtaining the registered sale deeds. As such, the dispute appears to be of civil in nature. The Title Suit for cancellation of sale deeds has already been filed as submitted by the learned counsel for the complainant/opposite party no.2. As such, the continuance of the criminal proceedings on summoning the petitioner and other accused, named in the complaint petition, on enquiry, under Section 204 of the Code of the Criminal Procedure, finding prima facie case under Sections 420 and 120B/34 of the Indian Penal Code against them through the impugned order in Complaint Case No.545 of 2013/Trial No.3146 of 2014, would amount to be an abuse of the process of the court.

9. Accordingly, the impugned order dated 25.04.2013 passed in Complaint Case No.545 of 2013/Trial No.3146 of 2014 by the court of the Judicial Magistrate, Saran, summoning the accused, named in the complaint petition, including the petitioner, on enquiry, under Section 204 of the Code of the Criminal Procedure, finding prima facie case under Sections 420 and 120B/34 of the Indian Penal Code against them and the entire criminal



proceeding of the aforesaid complaint case against the petitioner and the other accused, named in the complaint petitioner, are hereby quashed and this application is allowed.

(Rajendra Kumar Mishra, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.12.2017.
Transmission Date	18.12.2017.

