

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31846 of 2017

Arising Out of PS.Case No. -1361 Year- 2016 Thana -SAMASTIPUR COMPLAINT CASE
District- SAMASTIPUR

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1. Sudarshan Devi, wife of Yogendra Rai.
 2. Yogendra Rai, son of late Sone Lal Rai.
Both are resident of Village- Bochacha, P.S. – Mohiuddin Nagar,
District – Samastipur.
 3. Ram Sobhit Rai, son of Late Ram Bilash Rai, resident of village –
Rajaisi, P.O. Sultanpur, P.S. – Mohiuddin Nagar, District – Samastipur.
 4. Sakaldeo Rai, son of Ram Lagan Rai, resident of village – Kursaha, P.S.
– Mohiuddin Nagar, District – Samastipur.

.... Petitioners

Versus

1. The State of Bihar
Tila Devi @ Nita Devi, wife of Dayanand Rai, Vill – Kursaha P.S. –
Mohiuddin Nagar, District – Samastipur. Present Address – Vill -
Bochacha, P.S. – Mohiuddin Nagar, District – Samastipur.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Advocate

For the Opposite Party/s : None.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2. 13-07-2017

Heard learned counsel for the petitioner. No

one appears on behalf of the State.

The petitioners apprehend their arrest in
relation to Complaint Case No. 1361/2016 registered under
Sections 419, 420, 468, 471 and 120B of the Indian Penal
Code.

Learned counsel for the petitioners submits
that the allegation against petitioners are that they got a sale
deed executed on 29.12.2015 showing sale of land
measuring area 2 bighas and 16 dhoors from father of the



complainant. The complainant alleged that her father died on 22.12.2015, therefore, there was no question of execution of sale deed by the petitioners on 29.12.2015.

Learned counsel for the petitioners further submits that the dispute is with respect to land between the two co-sharers and in this regard a Title Suit No. 53/2016 is going on in the court of learned Civil Judge, Senior Division, Sahpur, Patori.

In the present case, learned Magistrate has taken cognizance for the offences alleged under Sections 419, 420, 468, 471 read with 120B of the Indian Penal Code and decided to issue summon against the petitioners. The petitioners apprehend that they may be taken in custody on putting appearance before the learned Magistrate.

In the facts of the present case, this Court is of the opinion that there being a complaint case and summon has been issued at the first instance against the petitioners. As per direction of the coordinate Bench of this Court in the case of *Salim Ansari @ Md. Salim Ansari and Others Vs. State of Bihar and Another vide order dated 14th May, 2015 passed in Cr. Misc. No. 51075 of 2014*; case of the petitioner, on their appearance, shall be considered by the



learned Magistrate keeping in mind that even though it is a case of non-bailable offence, a summon has been issued at the first instance and the petitioners are putting appearance in the case. In case any warrant of arrest has been issued against the petitioners, which the learned counsel apprehends during pendency of this application, the same shall not come in the way of the petitioners in putting appearance by filing an application for bail and the same shall be considered as if the petitioners have appeared after issuance of summons.

This application is, thus, disposed of.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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