

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34287 of 2014

Arising Out of PS.Case No. -1930 Year- 2010 Thana -SARAN COMPLAINT CASE District-
SARAN

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Vijay Krishna Sharma Son of Late Ajay Krishna Sharma @ Raju Resident of
Village - Chapra Mohan Nagar, P.S. - Town, Distt. - Saran (Chapra)

.... Petitioner/s

Versus

1. The State of Bihar
2. Ramesh Prasad Sharma, Son of Late Binda Prasad Resident of Village -
Nayagawn, P.S. - Nayagawn, Distt. - Saran., at present Resident of J.P. Partisthan,
S. Nandha Sector, H.S. C.L. Colony, Bhilai Nagar, Distt. - Durg (Chhatisgarh)

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Satish Kumar Sinha
For the State	:	Mr. Nand Kishore Pd. APP
For the O.P. no. 2	:	Mr. Ramesh Prasad Singh
		Mr. Sanjay Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 31-07-2017

This Cr. Misc. application has been filed for quashing the order dated 23.01.2014 passed by learned C.J.M. Saran in Complaint Case no. 1930 of 2010 whereunder the learned C.J.M. finding prima facie case for the offence under Sections 465 and 467 of the I.P.C., ordered for issuance of summons.

2. Heard both sides and perused the order.
3. It has been submitted that the O.P. no. 2 has filed the complaint case with false and frivolous allegation. The petitioner



along with five others had executed a sale deed in favour of co-accused Devendra Prasad Yadav on 04.09.1999. Out of them, the O.P. no. 2 filed the case only against this petitioner and exonerated other persons who had joined this petitioner in executing the sale deed. The allegation of committing forgery and impersonation is vague and no offence under Sections 465 and 467 is made out. It was further submitted that the complainant (O.P. no. 2) had filed a Complaint Case no. 9510 of 2010 with similar allegation which was dismissed for non-prosecution. Besides that, he has filed a Title Suit no. 1014 of 2013 against this petitioner and other co-sharer which is pending before Sub-Judge 1st, Saran. The dispute between the parties is civil dispute and so the criminal prosecution of this petitioner would amount to abuse of the process of Court. The learned Magistrate has passed the impugned order in a mechanical manner and so the same is fit to be quashed. The learned counsel for the O.P. no. 2 and APP for the State opposed the submissions. It was submitted that there are sufficient materials against the petitioner constituting offence in question and so this criminal miscellaneous application is fit to be dismissed.

4. On perusal of the complaint petition and statements of witnesses recorded at the time of inquiry, I find that there is specific allegation against the petitioner that in absence of the complainant,



the document was executed by someone else impersonating the complainant. The said sale deed was got executed and registered at the instance of this petitioner. The learned Magistrate got the L.T.I. of the disputed document and admitted L.T.I. examined and compared through finger prints expert from the Bureau of Crime Investigation Department. The L.T.I. of the sale deed in question was found different to the admitted L.T.I. of the complainant. The complainant on S.A. and three more witnesses have stated that the document in question was executed/presented and registered in the name of complainant although he did not appear to execute the document. The Title Suit filed by the O.P. no. 2 is for partition of ancestral landed property. The subject matter of the said suit is not cancellation of the sale deed. The learned Magistrate finding sufficient materials for framing the charge has rightly taken cognizance against the petitioner. It further appears that the petitioner had filed the petition under Section 245 of the Cr.P.C. praying therein to discharge him which after hearing was rejected by the court below on 20.06.2017 and the petitioner and other co-accused has been directed to remain present for framing the charge. The learned counsel for the petitioner in support of his contention has produced the certified copy of the order dated 20.06.2017.

5. In view of the aforesaid facts and circumstances, I do not find



any merit in the Cr. Misc. application and the same is accordingly dismissed.

(Sanjay Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	03.08.2017
Transmission Date	03.08.2017

