

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39875 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- BUXAR

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1. Sri Krishna Gupta S/O Late Ragunath Prasad Resident Of Village Bazar Samiti Road, Buxar, P.S. Town, District Buxar.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Praveen Kumar Gupta S/O Late Ram Krishna Gupta Resident Of Mohalla Akhauripur Gola, Chausa, P.S. Buxar (M), District Buxar.

.... Opposite Party/s

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Appearance :

For the Petitioner : Mr. Mithilesh Kumar Upadhyay, Adv.
For the Opposite Party No. 2 : Mr. Om Prakash Upadhyay, Adv.
For the State : Mr. Tarun Prasad Mandal, APP.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 11-09-2017

1. Heard learned counsel for the petitioner and the State.

2. This application has been filed for quashing the order dated 18-12-2006 passed by learned Chief Judicial Magistrate, Buxar in Complaint Case No. 967C of 2006 by which, the learned Magistrate after holding inquiry u/S 202 Cr.P.C. has found prima facie against the petitioner for the offence under Section-406, 420, 467 of the IPC.

3. It has been submitted on behalf of petitioner that the instant dispute is purely civil in nature for cancellation of Kewala dated 13-05-1991. It is submitted that the complainant has also filed Title Suit No. 72 of 2006 against this petitioner and other accused persons. In the instant complaint case, it has been alleged that the complainant is



agnate of the accused persons. The complainant has filed Partition Suit No. 59 of 2006 in the court of Civil Judge, Senior Division, Gajipur. The petitioner along with other accused namely, Pradeep Gupta and Pramod Gupta appeared in that suit and filed written statement, mentioning therein that they have executed a sale deed with respect to the land, situated at Chausa in favour of Sri Krishna Gupta on 13-05-1991. The sale deed, executed by Musafir Singh, was identified by Shashi Kumar and Kashi Upadhyay. Thereafter, copy of registered deed was got obtained from Registry Office, Buxar and after that, he learnt about preparation of forged sale deed by the accused persons.

4. Counsel for the petitioner has filed copy of Title Suit No. 72 of 2006 (Annexure-2), which shows that the complainant has filed Title Suit in the court of Munsif-II, Buxar for setting aside the aforesaid sale deed dated 13-05-1991., in which, the petitioner and other accused are defendants. After filing of the aforesaid Title Suit by the complainant in the court of Munsif-II, Buxar, the instant complaint has been filed on 18-11-2006.

5. It is an admitted position that accused persons belong to the same ancestors of late Raghunath Prasad. The petitioner and the complainant are uncle and nephew to each other. Partition Suit No. 59 of 2006 which has been filed by the complainant, is also pending



between the parties.

6. Therefore, the instant complaint has been filed by the complainant only with a view to pressurize the petitioner to settle land dispute. The civil suit is already pending between the parties.

7. In such circumstances, this court is of the view that continuance of the criminal proceeding against the petitioner will amount to harassment and abuse of process of court. Accordingly, the impugned dated 18-12-2006 passed by learned Chief Judicial Magistrate, Buxar in Complaint Case No. 967C of 2006 along with entire criminal proceeding against the petitioner is quashed.

9. This Cr. Misc. Application is ***allowed***.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	21-09-2017
Transmission Date	21-09-2017

