

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32859 of 2014

Arising Out of PS.Case No. -154 Year- 2012 Thana -ROSERA District- SAMASTIPUR

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1. Meghu Das
2. Bindo Das Both are son of Lakshman Das
3. Johar Das
4. Muso Das
5. Chhabu Das
6. Kiro Das All 3, 4,5 and 6 are sons of Bhola Das
7. Ramotar Das
8. Anil Das Both 6 and 7 are son of Meghu Das All are resident of Sahiyar Burj
P.S. Rosera Distt. - Samastipur

.... Petitioner/s

Versus

1. The State of Bihar
2. Mahanth Deep Narayan Das son of not Known, Chela of Satlook Vasi Mahanth
Thakur Das resident of Kabir Math Bagicha, P.S. Rosera Distt. Samastipur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs. Mira Kumari, Adv.
For the Opposite Party No.1: Mr. Tapeswar Sharma, APP
For the Opposite Party No.2: Mr. B.N. Mishra, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

CAV JUDGMENT

Date: 06-09-2017

The short facts of the case are that the Opposite Party No.2, i.e. Mahanth Deep Narayan Das had filed a complaint before the Officer-in-charge, Rosera on 14.06.2012, inter alia, alleging therein that he is the Mahanth of Rosera Kabir Math, Lakshimpur Bagicha and a land bearing Khata No. 126 old, 9 new, Khesra No. 51 and 114, whose new Khesra No. is 338, belongs to his 'Guru' namely, Awadh Das and after his death, the same has been registered in the name of Mahanth Das. It has been further stated that on 12.05.2010



the petitioners No. 1 to 6, with the intention of grabbing the lands and under a conspiracy sold the aforesaid land for a sum of Rs. 4,00,000/- (Rs. Four lacs) after making signature on 16.04.2010 in favour of the accused Amarika Devi in the Rosera Registry Office wherein the other accused persons including the petitioners no. 7 and 8 were witnesses. Subsequently, under a conspiracy, forged papers were prepared by the accused persons including a decree in their favour pertaining to one Title Suit No. 11 of 2008 and on that basis, a petition was filed before the Rosera Circle Office for the purposes of mutation and thereafter, the Circle Officer, Rosera had forwarded the said application to the Deputy Collector (Land), Rosera and then notice was issued to the complainant- informant, whereafter he had appeared in the said case. The Deputy Collector (Land) Rosera had declared the entire papers including the decree to be illegal, fraudulent and forged.

2. On the basis of the aforesaid complaint dated 14.06.2012, Rosera P.S. Case No. 154 of 2012 dated 14.06.2012 was registered under Sections 467, 468, 471, 406, 420 and 120(B) of the Indian Penal Code.

3. The learned Sub-Divisional Magistrate, Rosera in the aforesaid Rosera P.S. Case No. 154 of 2012 found a prima facie case against the accused persons and has consequently taken cognizance



under Sections 467, 468, 471, 406, 420 and 120(B) of the Indian Penal Code by an order dated 11.03.2014 against the accused persons including the petitioners herein.

4. The aforesaid order dated 11.03.2014 is under challenge in the present proceedings.

5. An Interlocutory Application No. 1826 of 2017 has been filed on behalf of the petitioners recently on 23rd August, 2017 seeking amendment in the prayer portion to the extent that the order dated 03.11.2015 passed by the learned Additional Chief Judicial Magistrate, Rosera in Trial No. 285 of 2016 arising out of Rosera P.S. Case No. 154 of 2012 by which charges have been framed against the petitioners herein be quashed.

6. The Opposite Party No.2 has also filed a counter-affidavit stating therein that since the charges have been framed, the stage of the case has changed, hence the present application has become infructuous.

7. The learned counsel for the petitioners has submitted that the allegations levelled in the complaint petition are essentially civil in nature, hence the F.I.R. / criminal prosecution is fit to be quashed. In this regard, the learned counsel for the petitioners has relied upon a judgment reported in (2009)8 SCC 751 [**Mohammed Ibrahim and Others vs. State of Bihar and another**].



8. Per contra, the learned counsel for the Opposite Party No.2 has submitted that firstly, the present case has become infructuous and secondly, the allegation levelled in the F.I.R. definitely discloses commission of cognizable offences.

9. I have perused the materials on record and have given a thoughtful consideration to the arguments advanced on behalf of the parties. I find from a bare perusal of the complaint lodged by the Opposite Party No.2 that the allegations levelled therein definitely makes out a prima facie case as well as discloses commission of cognizable offences, inasmuch as serious allegations regarding commission of forgery, fraud, cheating etc. have been levelled by the opposite party no.2. It is not a case where the complaint only discloses a civil dispute. Thus, the judgment rendered in the case of **Mohammed Ibrahim and Others vs. State of Bihar and another** (supra), referred to by the learned counsel for the petitioners, is of no help to the petitioners and is distinguishable in the facts and circumstances of the present case.

10. The next aspect of the case is that charges have been framed against the petitioners and the trial has started. Moreover, though the petitioners have assailed the order dated 03.11.2015 whereby and whereunder charges have been framed by the learned trial court against the petitioners by filing I.A. No. 1826 of 2017, the



same has been filed belatedly and no grounds whatsoever has been furnished to show the perversity in the order framing charges passed by the learned trial court on 03.11.2015.

11. For the reasons mentioned herein above, I do not find any merit in the present petition. Hence, the application is dismissed.

12. Accordingly, I.A. No. 1826 of 2017, seeking amendment in the prayer portion does not survive for consideration and is therefore, also dismissed.

13. In the facts and circumstances of the case, I deem it fit and appropriate to direct the learned trial court to conclude the trial preferably within a period of six months from today.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	30-08-2017
Uploading Date	07-09-2017
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