

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36178 of 2014

Arising Out of P.S.Case No. -274 Year- 2013 Thana -KHAGARIA COMPALINT CASE District-KHAGARIA

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1. Krishna Murari Choudhary @ Jhakhsu Choudhary son of Shiv Nandan Choudhary
 2. Shiv Nandan Choudhary son of late Jageshwar Choudhary, Both resident of village Pipra , P.O. Keshav Nagar , P.S, Chautham , district - Khagaria,.

.... Petitioners

Versus

1. State of Bihar &
2. Bhajjan Mahto, son of Late Saryug Mahto of village-Adawari P.O. Keshav Nagar, P.S. Chautham, District-Khagaria

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Suraj Narayan Pd. Sinha, Sr. Advocate
: Mr. Sandip Kumar Gautam, Advocate
For the Opposite Parties : Mr. Yogendra Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 25-08-2017

This application has been filed under Section 482 of the Cr.P.C. to quash the order dated 13.02.2014 passed by Judicial Magistrate, Ist Class, Khagaria in Complaint Case No.274C of 2013 whereunder the court below took cognizance against the petitioners for the offence under Sections 466, 467, 468 and 471/34 of the IPC and summoned the petitioners.

2. Heard and perused the record.

3. The facts in brief is that the father of Opposite Party No.2 had purchased land from petitioner nos.1 and 2 in the year 1991. The



name of purchaser, i.e., father of Opposite Party No.2 was mutated and he was coming in possession over the said land. The complainant has alleged that these petitioners in collusion with deed writer and witnesses did not mention the description of land correctly. They mentioned wrong plot number and khata number and thereby cheated the father of the complainant.

4. Learned counsel for the petitioners submits that these petitioners had executed sale deed in the year 1991 in favour of the father of complainant who is now no more. The complainant has filed this case after 26 years of the execution of sale deed in question. The allegation of cheating is not specific. The complainant was neither present at the time of execution of sale deed nor he had any concern with the execution of sale deed. The grievance of the Opposite Party No.2 is that the description was not correctly mentioned in the sale deed. The allegation appears vague. Petitioners however admit that the complainant is coming in peaceful possession of the said land since 1991. The dispute between the parties is civil in nature and so the cognizance order is fit to be quashed.

5. Learned App opposed the submissions.

6. On perusal of impugned order, it appears that there is no ingredient of cheating or committing breach of trust against the petitioners as the father of Opposite Party No.2 was put in possession



over the land on the basis of registered sale deed executed to the name of father of Opposite Party No.2. The criminal prosecution of these petitioners under such circumstance appears to be abuse of the process of the Court.

7. In view of the discussions made above, the order dated 13.02.2014 taking cognizance against the petitioners is hereby quashed and this criminal application is allowed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
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