

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17638 of 2014

Arising Out of PS.Case No. -1271 Year- 2012 Thana -KHAGARIA COMPALINT CASE District-KHAGARIA

- =====
1. Arvind Kumar Sinha, s/o late Jyanti Prasad
 2. Kiran Devi @ Masomat Kiran Devi, w/o late Rajendra Prasad
 3. Ajay Kumar Sinha, s/o late Rajendra Prasad
 4. Vijay Kumar Sinha @ Bijay Kumar Sinha, s/o late Rajendra Prasad
 5. Anjani Kumar Sinha, s/o late Rajendra Prasad
 6. Ashok Kumar Sinha, s/o late Jyanti Prasad
- All resident of village Sanhauli, P.S. Chitragupt Nagar, District Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Alok Kumar Sinha, s/o Sri Dharnidhar Prasad, resident of village Sanhauli, P.S. Chitragupt Nagar, District Khagaria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Krishna Pd. Singh, Sr. Advocate. Mr. Mithilesh Kumar Singh, Advocate
For the Opposite Party No.2	:	Mr. Viveka Nand Singh, Advocate. Mr. Hira Jha, Advocate.
For the State	:	Ms. Anuradha Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 16-10-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 20.1.2014 passed by the learned Judicial Magistrate, 1st Class, Khagaria, in Complaint Case No.1271C of 2012 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners for the offences under Section 420/34 of the Indian Penal Code.

2. Heard learned counsel for the petitioners, learned



counsel for the opposite party No. 2 and learned counsel for the State.

3. It has been submitted that opposite party No. 2 has filed a complaint alleging that Complaint Case No. 78C of 2011 was earlier sent to the Police Station under Section 156(3) Cr. P.C. on the basis of which Chitragupt Nagar P.S. Case No. 63 of 2011 was instituted in which opposite party No. 2 has alleged that in 1936 his grand father namely late Basu Chandini Prasad executed sale deed in favour of Most. Parvati Kuer, the half area of Zamindari of Tauzi No. 4961 and besides that he purchased through sale deed land measuring 5 Kattha 10 Dhur appertaining to Tauzi No. 4959, Khata No. 175, Khesra No. 14. It is further alleged that on 23.1.2011 the accused persons including the petitioners variously armed with weapons came to the house of the complainant and claimed that aforesaid land was gifted to them by Most. Girja Devi in the year 1992 and further demanded Rs.10,00,000/- as *rangadari*.

4. It is alleged that accused persons claimed that they got the land mutated in their favour. It is further alleged that accused persons created forged documents and on that basis they wanted to forcibly oust him from peaceful possession of the land in question. The police on the basis of earlier complaint case No. 78C of 2011 registered Chitragupt Nagar P.S. Case No. 63 of 2011 against the petitioners. The police after investigation submitted Final Form in the



aforesaid case holding the case untrue as is apparent from Annexure-3. Thereafter, on the basis of protest petition, the court below has proceeded considering the same to be complaint and by the impugned order, has found prima facie case against the petitioners for the offence under Sections 420/34 of the Indian Penal Code.

5. Learned counsel for the petitioners has submitted that the present case is counter blast of Chitragupt Nagar P.S. Case No. 60 of 2011 dated 4.2.2011 for the offences under Sections 420, 467, 468, 471, 387 and 120(B) of the Indian Penal Code lodged by Arvind Kumar Sinha (petitioner No. 1) against the complainant and others and in that case, charge sheet has been submitted and cognizance has also been taken against the complainant and others. It has further been submitted that from perusal of the complaint it would appear that crux of the case is whether the deed of gift executed by Most. Girja Devi in the year 1992 in favour of the petitioners is legally valid or not and the same is purely civil dispute.

6. From the averments made in protest-cum-complaint, this Court finds that nature of dispute as alleged is totally civil in nature and civil remedy is available to the complainant for redressal of his grievance.

7. Therefore, the impugned order dated 20.1.2014 passed by the learned Judicial Magistrate, 1st Class, Khagaria, in



Complaint Case No.1271C of 2012 along with the entire criminal proceeding against the petitioners, is hereby quashed.

8. This Criminal Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	31/10/2017
Transmission Date	31/10/2017

