

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43031 of 2013

Arising Out of PS.Case No. -3872 Year- 2009 Thana -VAISALI COMPLAINT CASE District-
VAISHALI(HAJIPUR)

- =====
1. Asha Devi W/O - Baidya Nath Sah R/O - Vill. - Sherpur Chhatwara, P.S- Mahua, Dist. - Vaishali
 2. Baidya Nath Sah S/O - Late Bulan Sah R/O - Vill. - Sherpur Chhatwara, P.S- Mahua, Dist. - Vaishali

.... Petitioner/s

Versus

1. The State Of Bihar
2. Rina Devi W/O - Surendra Sah R/O - Vill - Chhatwara Kapoor, P.S- Mahua, Dist. - Vaishali

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr.
For the Opposite Party/s : Mr. Mithilesh Kumar Gupta, Advocate.
Mr. Syed Md. Iqbal, Advocate.
For the State : Mr. B. N. Pandey, APP.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 17-04-2017

Heard both sides.

The petitioners filed this petition under Section 482 of the Code of Criminal Procedure to quash the order dated 11.02.2013 passed in Complaint Case No. C13872 of 2009 corresponding to Trial No. 855 of 2010, by which the learned Judicial Magistrate took cognizance under Sections 420 and 465 of the Indian Penal Code.

The complainant filed Complaint Case No. 2950 of 2017 against the petitioners, namely, Asha Devi and Baidyanath Sah. She alleged that the petitioners came to her residence and took away her husband who was mentally ill and fraudulently got a sale deed



executed by him in their favour. On the basis of the complaint, Mahua P.S. Case No. 188 of 2007 was registered under Sections 364, 420 and 34 of the Indian penal Code. The police took up the investigation and after investigation submitted final form finding the case false against the petitioners. The investigating officer found that the husband of the complainant went to Mumbai to live with her son. The victim also made his statement under Section 164 of the Code of Criminal Procedure and the final form was accepted.

Learned counsel for the petitioners submits that the dispute is of civil nature. No offence under Sections 420 and 465 of the Indian Penal Code is made out.

In reply to the submissions of the learned counsel for the petitioners, learned counsel for the opposite party no. 2 (complainant) submits that Surendra Sah made his statement under Section 164 of the Code of Criminal Procedure and stated that the petitioners got his signature and fraudulently got a sale deed executed in their favour. The case proceeded on the complaint. During the course of enquiry, the complainant stated that her husband Surendra Sah was mentally unfit and the petitioners fraudulently got his signature on a plain paper and the same was converted into a sale deed.

Having considered the submissions of the parties and



on perusal of the complaint petition as well as the on the basis of the materials collected during the course of enquiry, it is manifest on the face of the record that the complainant and her witnesses categorically stated that Surendra Sah was of unsound mind and he was not in a position to understand what he was doing, but both the petitioners took him and fraudulently got a sale deed executed in their favour. Learned Judicial Magistrate on the basis of the materials collected during the course of investigation found prima facie case under Sections 420 and 465 of the Indian Penal Code and proceeded against the petitioners.

Therefore, I do not find any illegality in the order impugned. Accordingly, this quashing petition is dismissed.

(Prabhat Kumar Jha, J)

Mishra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	03.05.2017
Transmission Date	03.05.2017

