

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43083 of 2013

Arising Out of PS.Case No. Year- Thana District- WESTCHAMPARAN(BETTIAH)

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1. Radha Sah Son Of Late Bangali Sah
2. Prem Sah Son Of Hanuman Sah Resident Of Village-Bhitaha, P.S.-Bairiya,
District-West Champaran

.... Petitioner/s

Versus

1. The State Of Bihar
2. Bali Sah Son of Bangali Sah Resident of Village-Bhitaha, P.S.-Bairiya, District-
West Champaran

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. A. K. Shrivastava, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyaya, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 17-04-2017

Heard both sides.

The petitioners have filed this petition under Section 482 of the Code of Criminal Procedure for quashing the order dated 03.07.12 passed in Complaint Case No. 1878-C/2011 whereby the learned Judicial Magistrate, West Champaran at Bettiah found prima facie case under Section 323, 467 of the IPC against the petitioners.

The complainant alleged in the complaint petition that he got four brothers, namely, Bindhyachal Sah, Sunar Sah, Radha Sah and Bali Sah, the complainant. Bangalai Sah, father of the complainant, gifted lands of Khata No. 658, Khesra No. 772, area one Katha and nine Dhurs and lands of Khata No.647, Khesra No. 782,



area one Katha and 12 Dhurs on 11.09.1980. The complainant, Bali Sah and Radha Sah partitioned their property and one Katha 7 ½ Dhur land fell in share of the complainant and one Katha 7 ½ fell in the share of Radha Sah, accused/ petitioner No.1. The complainant further alleged that on 21.07.2011 when he was on his land of Khata No. 647, R.S.P. no. 782, Radha Sah came and began to abuse and assault the complainant. On enquiry, the complainant came to know that on 24.07.1987 petitioner No.1 fraudulently got a sale deed executed in his favour by impersonating the complainant and on the aforesaid sale deed it is alleged that complainant put his thumb impression.

After enquiry under Section 202 of the Cr. P. C., the learned Judicial Magistrate found prima facie case under Section 323, 467 of the IPC against the petitioners vide order dated 03.07.2012.

The learned counsel for the petitioners assails the impugned order on the ground that the complaint was filed on 11.08.2011 but on the next date the complainant filed a Title Suit to set aside the sale deed. The dispute is purely of civil nature and no case under Section 323, 467 of the IPC is made out.

The complainant has alleged that he did not put his signature or thumb impression on any sale deed. The complainant obtained photo copy of the sale deed and after perusing the same he came to know that fraudulently some body impersonated him and sale



deed is brought into existence claiming that the thumb impression on the sale deed is of the complainant. There is allegation that petitioners also assaulted the complainant.

Having considered the materials on record, prima facie case under Section 323, 467 of the IPC is made out and there is no illegality in the order impugned. On the same facts civil as well as criminal proceeding can go on if the facts constitute offences.

This quashing petition is dismissed as devoid of any merit.

(Prabhat Kumar Jha, J)

BKS/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	5. 5. 17
Transmission Date	5. 5. 17

