

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18846 of 2014

Arising Out of PS.Case No. -88 Year- 2008 Thana -KARAGHAR District- SASARAM (ROHTAS)

- =====
1. Bijendra Kumar Pandey @ Bijay Nand Pandey, Son of Ram Ekbal Pandey
 2. Lal Bachan Tiwary, Son of Late Ram Briksh Tiwary, Resident of Village - Nado, P.S.- Karghar, District - Rohtas

.... Petitioner/s

Versus

1. The State of Bihar
2. Sri Mato Devi, Wife of Dhaneshwar Ojha, Resident of Village - Sishirit, P.s.- Nokha, District - Rohtas

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 18-07-2017

Heard learned counsel for the parties.

2. In the quashing application, petitioners challenge order dated 10.03.2014 passed by Mr. Ambika Prasad Chaudhary, Judicial Magistrate, 1st Class, Sasaram, whereby he has rejected a petition dated 08.02.2012 filed by the petitioners for discharging them from this case.

3. The F.I.R. of Karaghar P.S.Case No. 88 of 2008 dated 17.06.2008 was lodged by Srimato Devi, informant, against four accused persons including these two petitioners under Sections 406, 420, 467, 468 and 120B of the Indian Penal Code, stating therein that



she was the only issue of his father late Mosafir Pandey and he was living in his native village, his agnates, the accused persons, were looking after him, a 100 years old man and he died i.e., on 12.01.2008 but the petitioners, after his death, got his thumb impression and created a forged deed of Will in their favour. Police, after investigation finding the present case true, has submitted charge sheet and cognizance has been taken under the aforesaid Sections.

4. Learned counsel appearing on behalf of the petitioners submits that this case is purely of civil nature and in fact there was no issue of late Mosafir Pandey, who died issueless and before his death, he gifted the disputed Will in favour of the petitioner no. 1 and some others. A probate case has also been filed by the petitioner no. 1 and the same is still pending whereas two title suits were filed by the informant and both were dismissed for non-prosecution.

5. Learned A.P.P. submits that during investigation, several witnesses have stated that informant is the daughter from the first wife of late Mosafir Pandey and it has also come in evidence collected during investigation that on the date of his death on 12.01.2008, a forged deed of Will was created by putting his thumb impression over the document.

6. Having considered rival submissions of both sides and on perusal of the FIR as well as materials on record including the case



dairy, there appears statement of witnesses during investigation that the informant is the daughter of late Mosafir Pandey and the allegation is that after his death, a forged deed of Will was created by the accused persons by putting his L.T.I. on the document, so *prima facie* case is made out against these petitioners and the petition of discharge was rightly dismissed by the trial court. Hence, no ground for interference with the impugned order is made out.

7. The application stands dismissed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
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