

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8644 of 2012

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Md. Mazhar Hussain S/O Md. Wali Alam R/O Moh-Kangahiya Tola,
P.S.Khajekalan, Distt-Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Syed.Md. Izhar Anwar S/O Md.Wali Alam R/O Moh-Kangahiya
Tola(Kashmiri Kothi), P.S.Khajekalan, Distt-Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha
For the Opposite Party/s : Mr. Mayanand Jha(App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

5 27-04-2017 Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor for the State.

2. The petitioner has filed this petition for quashing
order dated 03.09.2010 passed in Complaint Case No.770 of 2010
by Sri R.S. Pandey, J.M., Patna City, whereby he has taken
cognizance of offence under Sections 420, 465, 504 and 323 of the
I.P.C.

3. The allegation, in brief, as mentioned in the
complaint petition is that the complainant along with three other
persons including the petitioners purchased piece of land in the
year 1986 and the same land was partitioned amongst them in the



four equal shares out of which front portion of the land marked as 'A' was allocated to Md.Mazhar Hussain, this petitioner, who is the younger brother of the complainant and rest three plots marked as B.C.D. were given to rest three remaining persons. A common road of 11' 8" from plot 'A' was carved to go to the land marked as Block B,C and D and said fact is mentioned in the sale deed. The said road was being used by all four persons since 19.06.2010, but recently summons by court was issued with respect to the Title Suit No.199 of 2010 filed by the Mazhar Hussain. On receiving plaint of the said title suit the complainant filed a incorrect map annexed with the plaint showing the road from the back side. So, the only allegation against the complainant is that map showing approach road to Block A B C and D annexed with the T.Suit No.199 of 2010 is not correct map as the road is shown in the map from eastern and northern side whereas the complainant and others were using the road of southern side, the only passage available to the complainant and other two persons. The passage from the front side, i.e. southern side is shown private passage by Md.Mazhar Hussain and the said map bears his signature, so he has created a forged document.



4. The learned counsel for the petitioner submits that allegation against petitioner is that, one incorrect map has been filed with the plaint of T.S.No.199/10 showing the approach road to the Block B C D from eastern and northern side of the plot. In the said title suit filed by the petitioner the complainant is one of the defendants, so the petitioners have filed Title Suit No.199 of 2010 placing his case before the Court and in order to give clarity to the case has filed a sketch map showing existing road with the plaint; so has not created and forged document and it does not come under the purview of making forged document under Section 464 of I.P.C. nor the said allegation constitute any allegation of cheating.

5. No one appears on behalf of the O.P.No.2 even after repeated calls though the name of the learned counsel for O.P.No.2 appears in the daily cause list.

6. Learned A.P.P. fairly concedes that this is a case of civil nature.

7. Having considered the submissions of the learned counsel for the petitioner and on perusal of the record I find that only allegation in the complaint is that according to



complainant one incorrect map showing the passage the approach road to Block ABCD to Plot No.708 was filed by the petitioner as a plaintiff with the plaint filed in T.S. No.199 of 2010 in order to plead his case before the court. This sketch map filed in the Title suit neither comes within the purview of making false document under Section 464 of the Indian Penal Code, nor any ingredient of cheating, is made out therefore, impugned order dated 3.9.2011 is set aside.

8. In the result, this quashing petition is allowed.

(Arun Kumar, J)

AnilKrSinha/-

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