

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53178 of 2013

Arising Out of PS.Case No. -156 Year- 2011 Thana -SIDHWALIA District- GOPALGANJ

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1. Ram Babu Prasad Shastri S/O Late Bhagrashan Prasad Resident Of Village- Larouli Mauza, Police Station- Sidhwalia, District- Gopalganj
2. Akhileshwar Prasad S/O Late Dharam Nath Prasad Resident Of Village- Larouli Mauza, Police Station- Sidhwalia, District- Gopalganj
3. Devendera Prasad @ Devendra Kumar S/O Late Dharam Nath Prasad Resident Of Village- Larouli Mauza, Police Station- Sidhwalia, District- Gopalganj
4. Praveen Prasad @ Praveen Kumar S/O Late Paras Nath Prasad Resident Of Village- Larouli Mauza, Police Station- Sidhwalia, District- Gopalganj
5. Bhaskar Prasad @ Bhaskar Kumar S/O Ram Babu Prasad Resident Of Village- Larouli Mauza, Police Station- Sidhwalia, District- Gopalganj
6. Ram Pravesh Prasad S/O Late Suresh Prasad Resident Of Village- Larouli Mauza, Police Station- Sidhwalia, District- Gopalganj
7. Chandkeshwar Prasad S/O Late Dilchand Prasad Resident Of Village- Larouli Mauza, Police Station- Sidhwalia, District- Gopalganj

.... Petitioner/s

Versus

1. The State Of Bihar
2. Ramdeo Prasad S/O Late Jatta Prasad Resident Of Village- Larouli Mauza, Police Station- Sidhwalia, District- Gopalganj

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kumar Veerendra Narayan

For the Opposite Party/s : Mr. Ashok Kumar Singh-I(App)

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 31-01-2017 Heard the parties.

As the matter is old, as such to expedite the matter, the same is being taken up and being disposed of at the stage of admission itself.

It is submitted at the very outset that the petitioner no.1 has died, as such petitioners are not pressing against the petitioner no.1.



The petitioners have preferred this application for quashing order dated 01.05.2013 passed by Sri J. Kumar, Judicial Magistrate, Ist class, Gopalganj in Tr.No.3392 of 2013 arising out of Sidhwalia P.S.Case No.156 of 2011 registered on the basis of Complaint Case No.2385 of 2011 under Sections 420, 467, 468, 384 and 120(B) of the Indian Penal Code.

The prosecution story in short is that the complainant Ramdeo Prasad filed Complaint Case No.2385 of 2011 against the petitioners with Ram Babu Shastru that in Khata No.114, Plot No.1930 area 7 kathas 11 dhurs that he is also having share of 1 katha 17 ½ dhurs (1/4 share). The further case of the complainant is that Late Bhagrasan Prasad got registered a forged sale-deed dated 26.2.1980 from Baleshwar Prasad in the name of Bhagrasan Prasad, area 15 dhurs and the accused persons are demanding Rs.50,000/- as Rangdari.

Thereafter, the aforesaid complaint petition was sent to the police for institution and investigation of the case and on that basis Sidhwalia P.S.Case No.156 of 2011 has been registered under Sections 420, 467, 468, 384 and 120(B) of the Indian Penal Code and the police after investigation submitted charge-sheet against the petitioners, on the basis of which, learned Judicial Magistrate has taken cognizance against the petitioners for the



offences under Sections 420, 467, 468, 384 and 120(B) of the Indian Penal Code.

The petitioners have challenged the aforesaid order dated 01.05.2013 in the present application under Sections 420, 467, 468, 384 and 120(B) of the Indian Penal Code.

The main contention of the petitioner is that a complaint petition had been filed before the District Sub-Registrar for information and the District Sub Registrar has given information, on the basis of which, the present case has been lodged by the complainant, however, from perusal of the information as supplied by the District Sub Registrar, it appears that the case is false and in the upper portion, it has been written that the enquiry was conducted with respect to document no.2787 dated 26.2.1980 but in the last portion, it is traceless, however, from the signature register of the aforesaid document, it appears that in page 56 and 57 there is signature. The LTI Register is dated 16.6.1980, which falsify the prosecution case. Secondly, it is submitted that a large number of cases is going on in between the parties and as both the parties are dissidents of the common heirs, as a matter of fact the order taking cognizance is bad in the eye law as the I.O. has submitted the charge-sheet without examining the facts. Hence, they have prayed for quashing of order dated 01.05.2013, by



which cognizance has been taken against the petitioners.

Heard learned A.P.P. also, who has opposed this application.

Having heard both sides. From perusal of the record, it appears that the police after investigation has submitted charge-sheet in this case and on that basis the learned Judicial Magistrate has taken cognizance against the petitioners for the offence under Sections 420, 467, 468, 384 and 120(B) of the Indian Penal Code.

So far RTI report, on the basis of the the same, whole allegation can not be brushed aside and veracity of the same can not be tested at this stage under Section 482 of the Code of Criminal Procedure. As such I am not inclined to interfere with the above order, however, the petitioners are at liberty to raise all these points at an appropriate stage.

With the aforesaid observation, this application is disposed of.

(Vinod Kumar Sinha, J)

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