

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39508 of 2013

Arising out of P.S. Case No.532 Year 2013 Thana PATNA COMPLAINT CASE District PATNA

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1. Kunal Sharma S/o Shiv Shankar Prasad Singh Resident of Village Langarpur, Police Station Barh, District Patna.
 2. Randhir Sharma S/o Late Balmiki Singh Resident of Village Dibar, Police Station Pandarak, District Patna.

.... Petitioners

Versus

1. The State of Bihar.
2. Rajendra Narayan Sharma S/o Late Ram Kishun Singh Resident of Village Jagmal Bigha, Police Station Khushrupur. At Present Village Alakhnath Chondi, Police Station Barh, District Patna.

.... Opposite Parties

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Appearance :

For the Petitioners	:	Mr. Manish Kumar No.2-Advocate
For the State	:	Mr. Amitesh Kumar, APP
For O.P. No.2	:	Mr. Neeraj Kumar @ Sanidh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 17-07-2017

This application has been filed for quashing order dated 29.04.2013, passed by learned Judicial Magistrate, 1st Class, Patna in Complaint Case No.532(C) of 2013 whereby he has taken cognizance of the offence under Sections 468, 467 and 471 of IPC and has issued summons to the petitioners for appearance.

2. The complainant's case in brief is that his co-sharers' share was partitioned in Title Suit No.793 of 2011 so he came in possession of his share. The complainant's son Uma Shankar was married to one Anandita Devi and after his death now she is married to one Yogendra Singh and living there along with her minor daughter Sonam Kumari. Another daughter of Uma Shankar was earlier



married to Kunal Sharma, the accused. Further allegation is that his daughter-in-law and his grand daughter have sold the land of the complainant, coming in conspiracy with other accused so they have created a forged sale deed as well as power of attorney. Further allegation is that Kunal Sharma also purchased land from Balram Singh, holding forged power of attorney thereafter he has sold the land to Randhir, other accused are witnesses of the sale deed.

3. Learned counsel for the petitioners submits that the petitioners are the son-in-law of the son of the complainant Uma Shankar. Uma Shankar had two daughters from two wives Khusboo @ Snehlata and Sonam Kumari. In the year 2000, a Title Partition Suit No.47 of 2000 was disposed of on the basis of compromise and a compromise decree was prepared and the share of his father-in-law, after his death devolved upon his wife and daughters and they came in possession of the land and their names were mutated in Register II. Khusboo and Anandita Devi, wife of Uma Shankar and Sonam Kumari executed sale deed in favour of Balram Singh and Balram Singh had executed a power of attorney in favour of Kunal Sharma with regard to the same property and with respect to the said land he has executed sale deed in favour of Randhir Sharma on 18.10.2012. It is also submitted that in Partition Suit No.793 of 2011, Khusboo @ Snehlata did not appear but a compromise decree was prepared in her



name so she has filed Miscellaneous Case No.5/2012 for setting aside that compromise decree passed in Title Suit No.793 of 2011. It is also submitted that share of Uma Shankar, son of the complainant was inherited by his wife and his daughters, who executed sale deed with respect to his share of land to Balram Singh and Balram Singh issued power of attorney to Kunal Sharma, petitioner no.1 and on that basis he has sold the land to petitioner no.2 so taking the allegation in entirety, no *prima facie* offence of making forged document is made out in this case so cognizance under Sections 468, 467 and 471 of IPC is bad in law and continuation of the proceeding would be abuse of the process of the Court.

4. Learned counsel appearing on behalf of opposite party no.2 submits that in Partition Suit No.793 of 2011, the schedule of land, which came into share of the complainant has been sold by petitioner no.1 to petitioner no.2 by creating a forged document so he has cheated the complainant.

5. Having considered the rival submissions of both sides and on perusal of the records, the Court is of the view that no *prima facie* case of making a forged document considering the entire allegation levelled in the complaint is made out. Making a false document is defined in Section 464 of IPC. In three conditions a forged document is created, first if a person executes a document with



intention to causing it to be believed that it was not executed by an authority of a person by whom or by whose authority he knows that it was not executed, secondly, without a lawful authority dishonestly or fraudulently by cancellation or otherwise makes alteration in a document, thirdly who dishonestly and fraudulently causes any person to execute a document knowing that such person by reason of unsoundness of mind or intoxication cannot know the contents of the document. In the present case all these three ingredients of making a forged document is absent.

6. In the backdrop of the facts alleged in the complaint, for aforesaid reason no *prima facie* case under Sections 468, 467 and 471 of IPC is made out against the petitioners; so continuation of the criminal proceeding in the matter would be an abuse of the process of Court, hence the order taking cognizance dated 29.04.2013 and the entire criminal proceeding in Complaint Case No.532 (C) of 2013 is hereby quashed.

7. The petition stands allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.07.2017
Transmission Date	21.07.2017

