

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.21988 of 2014

Arising Out of PS.Case No. -3106 Year- 2013 Thana -KATIHAR COMPLAINT CASE District-KATIHAR

1. Kumar Neeraj

2. Rajeev Kumar

Both sons of Hiralal Sah, Resident of Bara Bazar, Katihar, P.O., P.S. and District-Katihar.

3. Dr. Naresh Prasad, Son of Late Dr. Rajendra Prasad, Prasad Nursing Home, Main Road, near Bihar Cinema, P.S.-Jharia, District-Dhanbad.

4. Anil Kr. Mandal, Son of Late Pakku Mandal, Resident of Haftagunj, P.S.-Katihar (M), District-Katihar.

.... Petitioner/s

Versus

1. The State of Bihar

2. Rekha Devi, D/o Late Anandi Lal Sah, W/o Arun Kumar Lal @ Arun, Resident of Khas Mahal Road No. 3, Krishna Kumar Ashram, near Chiraiyatand Bridge, P.S. & District-Patna.

.... Opposite Party/s

with

Criminal Miscellaneous No. 22012 of 2014

Arising Out of PS.Case No. -3105 Year- 2013 Thana -KATIHAR COMPLAINT CASE District-KATIHAR

1. Kumar Neeraj

2. Rajeev Kumar

Both sons of Hiralal Sah, Resident of Bara Bazar, Katihar, P.O., P.S. and District-Katihar.

3. Dr. Naresh Prasad, Son of Late Dr. Rajendra Prasad, Prasad Nursing Home, Main Road, near Bihar Cinema, P.S.-Jharia, District-Dhanbad.

4. Anil Kr. Mandal, Son of Late Pakku Mandal, Resident of Haftagunj, P.S.-Katihar (M), District-Katihar.

.... Petitioner/s

Versus

1. The State of Bihar

2. Urmial Devi, D/o Late Anandi Lal Sah, W/o Late Brajanand Prasad, Resident of



Durga Asthan Colony No.-1, P.O. & P.S. & District-Katihar.

.... Opposite Party/s

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Appearance :

(In both cases)

For the Petitioner/s : Mr. Ranjay Kumar Singh, Advocate.

For the State : Mr. Ajay Kumar No. 1, APP

For the O.P. No. 2 : Mr. Birendra Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 11-09-2017

Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for the O.P. No. 2.

2. The present two quashing applications i.e., Cr. Misc. No. 21988 of 2014 and Cr. Misc. No. 22012 of 2014 arising out of Complaint Case No. 3106 of 2013 and Complaint Case No. 3105 of 2013 respectively are disposed off by the common order. The complainants of both cases are full-sisters and allegation, in both complaints, is identical. The other two sisters of the complainants have also filed Complaint Case No. 3102 of 2013 and 3101 of 2013, which means, total four complaints are filed by the four sisters alleging similar allegation that on a forged *Yaddastnama*, dated 20.06.1991, bearing the signatures of all four complainants, was filed by the petitioners in Title Suit No. 259 of 2013. In the present applications, the petitioners have challenged cognizance order dated 04.03.2014 passed by Sri D.Kumar, Judicial Magistrate, 1st Class,



Katihar under Sections 385, 419, 420, 465 and 120B of the Indian Penal Code.

3. Learned counsel appearing on behalf of the petitioners submits that the entire disputes between both sides is predominantly civil in nature, so the said *Yaddastnama* is under the scrutiny in Title Suit No. 259 of 2013, for which separate criminal prosecution should not be allowed to proceed. He submits that the said *Yaddastnama* is of the year 1991 and the allegation of creating of forged Will is of the year 2003 in which petitioners no. 3 and 4 have identified the L.T.I. of the executant.

4. Contrary to that, learned counsel appearing on behalf of the O.P. No. 2 submits that similar complaints filed by two other sisters i.e., Complaint No. 3102 of 2013 and Complaint No. 3101 of 2013 in which cognizance was taken against these petitioners for which separate quashing applications Cr. Misc. No. 22077 of 2014 and Cr. Misc. No. 22489 of 2014 have already been dismissed by a co-ordinate Bench of this Court by order dated 06.09.2017 holding therein that in the given facts of the case, both proceedings, civil as well as criminal may proceed.

5. Having considered rival submissions and on perusal of record as well as the order passed in Cr. Misc. No. 22077 of 2014 and Cr. Misc. No. 22489 of 2014, already this matter was settled by a co-



ordinate Bench of this Court and as the nature of allegation in all four complaints are almost identical, so I am of the view that it is not that no offence is disclosed by the allegation made in the complaint. Moreover in given facts of the case, the criminal as well as civil proceeding may proceed simultaneously. Therefore, for the aforesaid reasons, both the quashing applications stand dismissed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.09.2017
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