

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19890 of 2014

Arising Out of PS.Case No. -1118 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. Kumar Indradeo @ Kumar Indradeo Yadav, Son of Late Ram Prit Singh, Resident of Missi Kutir, Road No. 12, House No. 17/ E, Mohalla-Rajendra Nagar, P.S- Kadamkuan, District- Patna.
 2. Kumar Gyanendra @ Kumar Gyanendra Yadav, Son of Dr. Kumar Indradeo @ Kumar Indradeo Yadav, Resident of Missi Kutir, Road No. 12, House No.17/ E, Mohalla- Rajendra Nagar, P.S- Kadamkuan, District- Patna.

.... Petitioners.

Versus

1. The State of Bihar.
2. Milan Kumar Sudhakar, S/o Late Rambilash Yadav, Resident of Village-Ali Nagar, P.S- Baheda, District- Darbhanga.

.... Opposite Parties.

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Appearance :

For the Petitioners : M/s. Sanjeet Kumar & Digvijay Narayan Singh,
Advocates.

For the State : Mr. B.N. Pandey, A.P.P.

For the Opposite Party No.2 : Mr. Jai Prakash Verma, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT

Date: 06-11-2017

Heard learned counsel for the petitioners and the learned
A.P.P. for the State as also the learned counsel for the opposite party
no.2.

2. This application, under Section 482 of the Code of
Criminal Procedure, is directed to quash the order dated 15.07.2013
passed in Complaint Case No.1118(C) of 2012, whereunder the court
of the Judicial Magistrate, First Class, Patna, summoned the accused-
petitioners, on inquiry, under Section 204 of the Code of Criminal



Procedure, finding prima facie case under Sections 420, 467, 468, 471 and 120(B) of the Indian Penal Code against them.

3. The facts, leading to this application, are that the complainant/opposite party no.2 Milan Kumar Sudhakar filed Complaint Case No.1118(C) of 2012 in the court of the Chief Judicial Magistrate, Patna, to the effect that Dr. Desh Gaurav Yadav, the husband of Dr. Gyan Kaur Yadav, executed the power of attorney in favour of the accused-petitioner no.1 Kumar Indradeo alias Kumar Indradeo Yadav. In the year 2008, Dr. Desh Gaurav Yadav died. Thereafter, Dr. Gyan Kaur Yadav, wife of Late Dr. Desh Gaurav Yadav, used to reside in United Kingdom and executed the power of attorney in favour of the complainant/opposite party no.2 on 13.03.2011 to look after her three storied building situated at E/17, Road No.12, Rajendra Nagar, P.S. Kadamkuan, District-Patna. When the complainant/opposite party no.2 went to the Patna Municipal Corporation to deposit the power of attorney then he came to know that the petitioner no.2 Kumar Gyanendra alias Kumar Gyanendra Yadav, son of the petitioner no.1 Kumar Indradeo alias Kumar Indradeo Yadav, got mutated his name in respect to the said house, in the Patna Municipal Corporation, in place of Dr. Desh Gaurav Yadav. The complainant/opposite party no.2, to verify the aforesaid fact, filed an application before the Public Information Officer, Circle-Bankipur,



on 27.10.2012 then he came to know that the name of the petitioner no.2 Kumar Gyanendra alias Kumar Gyanendra Yadav is mutated through Mutation Case No.288/29A/2004-2005, showing the name of his father as Dr. Desh Gaurav Yadav. The complainant-opposite party no.2 gave information to Smt. Gyan Kaur Yadav, wife of Late Dr. Desh Gaurav Yadav, about mutation in respect of the aforesaid house in the name of the petitioner no.2 Kumar Gyanendra alias Kumar Gyanendra Yadav, showing his parentage as Dr. Desh Gaurav Yadav. Thereafter, Smt. Gyan Kaur Yadav informed the complainant/opposite party no.2 that she never executed the power of attorney in favour of the petitioner no.2 Kumar Gyanendra alias Kumar Gyanendra Yadav. When the complainant/opposite party no.2 met the petitioners and made complaint regarding the same, the petitioners started to abuse and cause assault to him through fists and slaps. As such, the petitioners committed mischief and fraud in mutating the name of the petitioner no.2 Kumar Gyanendra alias Kumar Gyanendra Yadav in respect of the aforesaid house, showing his parentage as Dr. Desh Gaurav Yadav.

4. Learned counsel appearing on behalf of the petitioners submits that, in fact, Dr. Desh Gaurav Yadav and his wife Dr. Gyan Kaur Yadav, had executed an agreement to sale on 03.10.1992 in respect of the house in dispute in favour of the petitioner no.2 Kumar



Gyanendra alias Kumar Gyanendra Yadav, son of the petitioner no.1 Kumar Indradeo alias Kumar Indradeo Yadav, who was minor at that time, fixing the consideration of amount of Rs.20,00,000/- and out of the aforesaid consideration amount, Rs.16,00,000/- was paid and Rs.4,00,000/- was to be paid. According to the agreement, the accused-petitioner no.2 Kumar Gyanendra alias Kumar Gyanendra Yadav, son of the petitioner no.1 Kumar Indradeo alias Kumar Indradeo Yadav, was authorized to get recorded his name in the Patna Municipal Corporation. As such, no forgery/fraud has been committed by the petitioners. Further submission is that, moreover, the opposite party no.2 has filed Title Suit No.507 of 2011 for eviction of the petitioners to the premises in dispute, which is pending in the court of the Sub Judge-I, Patna, for disposal. It is further submitted that the power of attorney, which is said to be executed by Smt. Gyan Kaur Yadav, wife of Late Dr. Desh Gaurav Yadav, was executed in United Kingdom in favour of the complainant/opposite party no.2, was received directly by the complainant/opposite party no.2 and the same was not sent through embassy as required under the law.

5. On the other hand, learned counsel for the opposite party no.2 submits that, in fact, the petitioners, who are father and son respectively, obtained the forged certificate from the Municipal



Corporation, Patna, in respect to the death of Smt. Gyan Kaur Yadav, wife of Late Desh Gaurav Yadav, while she is residing at United Kingdom and on that very basis, the petitioners got mutated the name of the petitioner no.2 showing his father's name Dr. Desh Gaurav Yadav, husband of Smt. Gyan Kaur Yadav, in the Patna Municipal Corporation, which has come in course of inquiry under Section 202 of the Code of Criminal Procedure.

6. On going through the impugned order dated 15.07.2013 passed by the court of the Judicial Magistrate, First Class, Patna, in Complaint Case No.1118(C) of 2012, summoning the accused-petitioners, on inquiry, under Section 204 of the Code of Criminal Procedure, finding prima facie case under Sections 420, 467, 468, 471 and 120(B) of the Indian Penal Code, I find no illegality therein amounting to an abuse of the process of the court for interference with the same in an extraordinary jurisdiction of this Court under Section 482 of the Code of Criminal Procedure. Accordingly, this application stands dismissed.

(Rajendra Kumar Mishra, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
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