

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15734 of 2013

Arising Out of PS.Case No. -2110 Year- 2011 Thana -PURNIA COMPLAINT CASE District-
PURNIA

- =====
1. Indra Nand Thakur S/O Late Kripa Nand Thakur Resident Of A/1, Magistrate Colony, P.O.- Ashiyana Nagar, P.S.- Rajeev Nagar, Town & District- Patna
 2. Nikhila Nand Thakur S/O Sri Indra Nand Thakur Resident Of A/1, Magistrate Colony, P.O.- Ashiyana Nagar, P.S.- Rajeev Nagar, Town & District- Patna

.... Petitioners

Versus

1. The State Of Bihar
2. Md. Ilyas S/O Md. Alauddin Resident Of Village- Lohjar Lakshmipur, P.S.- Falka, District- Katihar (Bihar).

.... Opposite Party

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Appearance :

For the Petitioners	:	Mr. Raju Giri Mr. Santosh Kumar Mishra
For the State	:	Mr. M.M.Khare, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 31-10-2017

Heard learned Counsel for the petitioners and the learned
Counsel for the State.

2. This application for quashing has been filed under Section 482 of the Code of Criminal Procedure by the petitioners seeking quashing of the cognizance order dated 18.12.2012 passed in Complaint Case No. 2110 of 2011 whereby taking cognizance under Sections 447, 341, 506, 342, 323 and 423 of the IPC and also summons issued against them to stand trial in this case.

3. The brief facts leading to filing of the complaint case is that the petitioners have given their land on *batai* to the complainant since 1980. In the year 2010 Nikhila Nand Thakur, the petitioner No. 2 gave



pressure to the complainant to purchase the land but as he was demanding more consideration money so sold the land to other persons. Thereafter the purchasers along with other co-accused went over the land along with the police and forcibly took possession of the land, cultivated the same by tractor and also in the process assaulted and threatened him.

4. Learned Counsel for the petitioners submits that it is admitted position that the petitioners were the land owners and there is no averment either in the complaint or in the statement given on solemn affirmation by the complainant relating to even presence of the petitioners on the spot. Being land owners having right and title sold some portion of the land by two sale deeds on 23.3.2011. As per the allegation the date of occurrence is 8.8.2011, so selling of land by the owner of the land does not amount to any offence. No ingredient of any offence under which cognizance has been taken is prima facie made out against the petitioners so continuance of the criminal proceeding against them would be abuse of the process of the Court. The complainant had also filed a suit on 20.11.2010 against the petitioners for declaration of his *bataidari* right over the land in question. In order to put pressure to the petitioners they have been implicated without any substance. Moreover no any overtact or even any allegation of conspiracy against the petitioners is levelled in the complaint.

5. None appears on behalf of O.P. No. 2 despite appearance in the case. Learned Counsel for the State supports the cognizance order.

6. Having considered the rival submissions and on perusal of



record the Court finds that no prima facie case against the petitioners is made out under which cognizance has been taken. The only relevant part of the allegation levelled against them is that they sold the land to some one else against the wish of the complainant. The petitioners are not named to be present on 8.8.2011 at the place of occurrence, so any question of their participation in the occurrence is ruled out.

7. Therefore, for the aforesaid reasons, finding no ingredient of any offence being made out in the complaint against the petitioners consequently entire criminal proceeding inclusive of the cognizance order dated 18.12.2012 passed in Complaint Case No. 2110 of 2011, only with respect to these two petitioners, is hereby quashed.

8. The application stands allowed.

(Arun Kumar, J.)

Snkumar/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	2.11.2017
Transmission Date	2.11.2017

