

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33710 of 2014

Arising Out of PS.Case No. -447 Year- 2011 Thana -MADHEPURA COMPALINT CASE District-
MADHEPURA

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1. Uma Sah wife of Sri Shiv Shankar Ram
2. Shiv Shankar Ram son of late Ram Nandan Ram Both are resident of
village - Uda Kishunganj ps Uda Kishunganj District Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Mani Shankar Ram son of late Ram Nandan Ram r/o village Uda
Kishunganj p.s Uda Kishunganj, Distt. Madhepura.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Sinha

For the Opposite Party/s : Mr. Ram Chandra Singh(App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

3 28-07-2017 Heard the parties.

2. The petitioners have filed this quashing application
challenging order dated 13.09.2013 passed by the Judicial
Magistrate 1st Class, Madhepura in Complaint Case No.447 of
2011 whereby he has taken cognizance of offence under Sections
467, 468, 420, 120(B), 323 and 504 of the Indian Penal Code.

3. The allegation, in brief, as alleged in the Complaint
petition is that his brother Sheo Shankar Ram in association of
other co-accused persons in order to grab the share of the
complainant who happens to be his full brother fraudulently got
executed the deed of gift from his mother. In that period of time



she was old and remained ill and was in unconscious state. So, she was not produced before the Registrar. On commission the accused no.6 Assistant of Registry got it executed by presenting deed in collusion with his brother. Moreover, her mother was a literate lady who used to put her signature but thumb impression was taken during that course, so, fraudulent deed of gift was brought into existence by the accused persons. The date of alleged forged deed of gift is 10.02.2011.

4. Learned counsel appearing on behalf of the petitioners submits that allegations do not make out any criminal offence rather entire dispute is of civil nature. The deed of gift was executed by mother on commission when she was in state of sound mind.

5. Learned counsel appearing on behalf of O.P. no.2 submits that sheo Shankar Ram is the full brother of the complainant. His mother was very old. At the relevant time she was suffering from illness and she was in unconscious state so her thumb impression was taken on the deed of gift whereas she was a literate lady and she used to put her signature on other document. The said deed was executed on 10.02.2011 and she died on 1.3.2011.

6. Having considered the rival submission and



perusal of records the allegation leveled by the complainant do make out a case in which cognizance has been taken. It is settled principle of law that defence of the accused cannot be considered for quashing the entire criminal proceeding in a case related to offence against property both civil as well as criminal proceeding may be initiated so finding no merit in this case, the petition stands dismissed.

(Arun Kumar, J)

AnilKrSinha/-

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