

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.845 of 2014

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Shambhu Nath, S/o late Jagdish Prasad, resident of Village- Kurjee (Ganga Gate No.-66) P.O.- Sahadat Ashram, P.S.- Digha, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Chhattu Mahto, Son of Late Sheopujan Mahto
3. Somenath Mahto, Son of Sri Munshi Mahto
4. Sudesh Mahto, Son of Sri Munshi Mahto
5. Ramjee Mahto, Son of Sri Munshi Mahto
6. Chansi Mahto, Son of Late Sheopujan Mahto
7. Ramdutt Mahto, Son of Late Sheopujan Mahto
8. Rajesh Mahto, Son of Late Munshi Mahto
9. Kanshi Mahto, Son of Late Sheopujan Mahato
10. Sharmanand Mahto, Son of Late Satya Narayan Mahto

All are resident of village- Kurjee (Ganga Gate No.-67) P.O.- Sadaquat Ashram, P.S.- Digha, District- Patna-800010.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar-No. 1, Adv.
Mr. Vijay Kr. Singh, Adv.

For the Respondent/s : Mr. Ranjit Ranjan, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

Date: 09-02-2017

Heard the parties.

2. This application, under Section 397 read with Section



401 of the Code of Criminal Procedure, has been filed against an order, dated 18.06.2014, passed by the learned Judicial Magistrate, Ist Class, Patna, in Complaint Case No. 25714 of 2014, whereby, on the basis of complaint petition filed by the petitioner, she has refused to take cognizance of the offences punishable under Sections 147, 148, 149, 341, 452, 504, 177, 209, 468 and 307 of the Indian Penal Code.

3. Upon perusal of this petition and submission advanced on behalf of the petitioner, I am of the view, for the reasons recorded hereinunder, that this application lacks *bona fide* and is frivolous and, therefore, deserves to be dismissed with exemplary cost, so as to deter other irresponsible litigants from filing such cases.

4. For the said purpose, the allegations, contained in the complaint petition are to be taken note of first. It is evident from the complaint petition that there was some dispute over land between the petitioner and the opposite parties, who have been made accused in complaint case. It is mentioned in the complaint case that in April, 2013, these opposite parties had committed house trespass and they were digging ditch over their plot for constructing boundary wall. It also appears from the complaint petition that accused No. 1, namely, Chattu Mahto, had come to the house of the complainant in April, 2013 and had handed over a *Sada* deed of sale-deed, executed and registered in the year 1917, and claimed the land of plot No. 519 as



his purchased land. It is further the case of the complainant that on 01.07.2013, some of the accused instituted completely a false suit for declaration of title in the Court of Sub-Judge-Ist, Patna, which was numbered as Title Suit No. 416 of 2013, with full knowledge that it was a false suit, to terrorize and victimize the father of the complainant, the deceased. It is also alleged that the accused persons knew that he was suffering from chronic heart ailment. It is also alleged that accused, Rajesh Mahto, got registered a false case with Digha police station on 09.09.2013. It is further alleged in the complaint petition that the deceased had filed informatory petition in the Court of learned Chief Judicial Magistrate, Patna, which has been brought on record by way of Annexure-2 to this application, regarding aforesaid misdeeds of the private opposite parties.

5. The complaint petition, thereafter, refers to an occurrence, which had taken place on 25.11.2013, when the accused persons are said to have come to the house of the complainant, slapped his father and pushed him on floor. On hearing noise, the neighbours are said to have gathered, because of which the father of the complainant could be saved. Allegedly, the father of the complainant could not sleep well in the night and finally died at about 1.00 A.M. on 26.11.2013.

6. With these allegations, the petitioner filed the



complaint case after nearly three and half months from the said date.

7. If the complaint petition is read in its entirety, it is easy to make out that the complainant refers to an occurrence, which had taken place on 25.11.2013, when the opposite parties are said to have slapped the father of the complainant. The background in which the complaint petition was filed is evident, as has been noticed above. The petitioner, on the basis of allegations made in the complaint petition, wants that the court below ought to have taken cognizance of the offence punishable under Section 302 of the Indian Penal Code, because his father died of heart attack. The father of the petitioner had suffered heart attack at least on two occasions prior to the said alleged occurrence is an admitted fact.

8. The facts, as noted above, speak for themselves.

9. Learned counsel for the petitioner has placed much reliance on the statement of some of the witnesses on solemn affirmation.

10. In my view, the impugned order, dated 18.06.2014, whereby, cognizance has been taken under Section 323 of the Indian Penal Code only and not against other provisions of the Indian Penal Code, on the basis of allegation made in the complaint petition, does not require any interference. This revision petition has been filed only to harass the opposite parties. I am of the definite view that by filing



of the present criminal revision application, the petitioner has attempted to misuse and abuse the process of the Court.

11. There is yet another unfortunate part. The present criminal revision application was filed on 23.09.2014 and the case was taken up for the first time on 14.11.2014. For the reasons unknown, the petitioner got the matter adjourned and since then, the matter has remained pending.

12. Considering the conduct of the petitioner, I dismiss this criminal revision application with a cost of Rs. 20,000/- to be deposited in Patna High Legal Services Authority within a period of three (3) months from today.

13. Later on, learned counsel for the petitioner has submitted that cost amount may be reduced to Rs. 10,000/-.

14. Considering the submission, the cost is reduced to Rs. 10,000/- to be deposited within the aforesaid period, as directed.

15. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10.02.2017
Transmission Date	10.02.2017

