

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.21925 of 2013

Arising Out of PS.Case No. -1325 Year- 2010 Thana -GAYA COMPLAINT CASE District- GAYA

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Kumar Shailendra, son of late Ram Ran Bikat Prasad Singh, r/o Mohallah- Jagat Narayan Road, P.O.- Kadam Kuan, P.S.- Kadam Kuan, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Smt. Manju Devi, wife of Sri Uma Shankar Singh, r/o village- Rauna, Tola- Mahadeo Bigha, P.S.- Belaganj, District- Gaya

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashutosh Singh, Advocate.
For the opposite party No.2 : Mr. Shivendra Prasad, Advocate.
For the State : Mr. Amit Kumar Rakesh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 05-12-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 17.3.2011 passed by the learned Judicial Magistrate, 1st Class, Gaya, in Complaint Case No. 1325 of 2010, by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioner and another accused person for the offences under Sections 420, 468 and 471 of the Indian Penal Code.

2. The prosecution case is that the complainant claims to be the owner of a piece of land. He has possession over the said land, situated at village Eraki, P.S. Belaganj, Distt. Gaya and during the survey operation said Khata was prepared in the name of



father of accused No. 2 namely Gopal Singh. She further discloses that against the said wrong entry, the complainant got a decree in her favour from the Survey authority under Section 106 of BT Act in the year 1979. It is alleged in the complaint petition that petitioner has filed a Title suit No. 15/06-30/09 against Ram Naresh Singh (accused No.2) for declaration of title which was dismissed on 9.4.2010 by the learned court of Additional Munsif VIII, Gaya. Thereafter, this petitioner fraudulently and dishonestly executed a registered sale deed on 25.5.2010 in favour of Ram Naresh Singh and sold the land of Khata No. 127, Plot No. 1883 area 78 decimals of village Eraki, P.S. Belaganj, Distt. Gaya. It is further alleged that Ram Naresh Singh (accused no. 2) on the basis of aforesaid sale deed and with the help of anti social elements tried to take forceful possession over the land in question. The accused persons threatened the complainant with dire consequences.

3. Heard learned counsel for the petitioner, learned counsel for the opposite party No. 2 and learned counsel for the State.

4. Learned counsel for the petitioner has submitted that it is a matter of purely civil dispute. The complainant is purchaser of the land. She has purchased the land from Sanjay Kishore Singh, son of Prabhavati Devi by a registered sale deed dated 25.5.2010



whereas petitioner has purchased the land in question prior to 25.5.2010 and has executed sale deed with respect to the aforesaid land in favour of accused No. 2 Ram Naresh Singh after losing Title Suit No. 15 of 2006 filed by petitioner against accused No. 2, namely, Ram Naresh Singh. The counsel for the petitioner has further submitted that complainant has already filed Title Suit No. 12 of 2011 against Ram Naresh Singh in whose favour this petitioner has executed sale deed of land in question prior to execution of the sale deed of the aforesaid land in favour of the complainant by son of Prabhawati Devi namely Sanjay Kishore Singh.

5. Learned counsel for the opposite party No. 2 has appeared and submitted that Prabhawati Devi is the owner of land. There is no dispute with regard to the same. She has purchased the land from the rightful owner and after purchasing the land, this petitioner started creating objection and, thereafter, the instant case has been filed. He has also submitted that this petitioner has fraudulently executed sale deed in favour of accused No. 2 Ram Naresh Singh of the land belonging to the share of Prabhawati Devi.

6. In the complaint petition it is alleged that earlier this petitioner had filed Title Suit No. 15 of 2006 against accused No. 2 for declaration of Title with respect to the land in dispute which was dismissed on 9.4.2010. Thereafter, this petitioner fraudulently and



dishonestly executed registered sale deed on 25.5.2010 in favour of accused No. 2. The accused No. 2 namely, Ram Naresh Singh on the basis of aforesaid sale deed tried to take forceful possession of the aforesaid land.

7. It is admitted position that complainant has purchased the land from son of Prabhawati Devi by a registered sale deed dated 25.5.2010. The complainant has also filed Title Suit No. 12 of 2011 against accused No. 2 Ram Naresh Singh in whose favour the sale deed has been executed by the petitioner with respect to aforesaid land. As per submission of the learned counsel for the petitioner the aforesaid sale deed has been executed in favour of accused No. 2 prior to sale deed dated 25.5.2010 by Sanjay Kishore Prasad Singh, son of Prabhawati Devi in favour of the complainant. The complainant has however stated that she has no knowledge about the sale deed executed by the petitioner in favour of accused No. 2

8. Learned counsel for the State has submitted that witness namely Wakil Singh (CW-2) during enquiry has stated that the petitioner has executed sale deed in favour of Ram Naresh Singh one day prior to the sale deed by Sanjay Kishore Singh in favour of the complainant.

9. In such circumstances, this Court is of the view that this is a matter of purely civil dispute.



10. Accordingly, the impugned order dated 17.3.2011 passed by the learned Judicial Magistrate, 1st Class, Gaya, in Complaint Case No. 1325 of 2010, along with entire criminal proceeding against the petitioner, is hereby quashed.

11. This Cr. Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	13/12/2017
Transmission Date	13/12/2017

