

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29260 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- BUXAR

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1. Ramjee Prasad Keshari @ Ramjee Keshari, son of Late Ramadhar Prasad, Halka Karamchari, Anchal Office, Itarhi, P.S.-Itarhi, Dist.-Buxar.
 2. Dinesh Kumar Singh, son of Late Chhabila Singh Anchal Nazir, Anchal Office Itarhi,P.S.-Itarhi, Dist.-Buxar.

.... Petitioners

Versus

1. The State of Bihar,
2. Brij Raj Pandey, Late Brameshwar Pandey Vill & P.S.-Itarhi,Dist.-Buxer

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Rang Nath Choubey, Advocate
For the O.P. No.2 : Mr. Bachanjee Ojha, Advocate
For the State : Mr. A.M.P. Mehta, APP.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT

Date: 30-11-2017

Heard learned counsel for the petitioners, learned counsel for O.P. No.2 and also learned A.P.P. appearing on behalf of State.

2. This application has been filed under Section 482 of the Code of Criminal Procedure to quash the order dated 18.04.2011 passed in Complaint Case No. 547 (C) of 2007 (Tr. No. 1349 of 2011), whereunder the Judicial Magistrate, 1st Class, Buxar summoned the accused-petitioners, on inquiry, under Section 204 Cr.P.C. finding prima facie case under Sections 120-B, 166 and 167 of the Indian Penal Code.

3. The facts leading to this application are that O.P. No.2 Brij Raj Pandey filed the Complaint Case No. 547 © of 2007 in the Court of Chief Judicial Magistrate, Buxar to the effect that he purchased one acre land of Plot No. 1335 of Khata No. 428 in village Itarhi, District-



Buxar to Vijay Shankar Prasad Gupta in his name and in the name of his brother Awdhesh Pandey on 18.07.2005. Thereafter, he filed an application for mutation before the Circle Office, Itarhi. Which was numbered as Case No. 36 of 2007-08. On 12.04.2007 order was passed for mutation of his name and his brother Awadhesh Pandey. Thereafter, O.P. No.2 went to Circle Office, Itarhi and handed over the photocopy of the mutation order to Dinesh Kumar Singh (Petitioner No.2), Circle Nazir for mutation of his name and his brother Awadhesh Pandey. On the next day, O.P. No.2 reached at the residence of Ramjee Keshri (Petitioner No.1), Halka Karamchari then saw that Dinesh Kumar Singh (Petitioner No.2) Anchal Nazir was present there and both asked him to give Rs. 20,000/- for mutation of his name and name of his brother and issuing the rent receipt otherwise the mutation order will be got stayed. In spite of the request of the O.P. No.2, petitioner No.1 did not issue rent receipt. In the meantime, Circle Officer, Itarhi was transferred on 23.04.2007. Thereafter, both the petitioner under conspiracy got stayed the mutation order passed in favour of O.P. No.2 and his brother Awadhesh Pandey. As such both the petitioners committed forgery in the official record only to put undue pressure upon the O.P. No.2 and blackmail him for realizing Rs. 20,000/-.

The aforesaid Complaint Case No. 547 © of 2007 was sent on 23.05.2007, under Section 156 (3) of the Cr.P.C. to the Itarhi Police Station for investigation, on which basis Itarhi P.S. Case No. 69 of 2007 was instituted on 06.07.2007 under Sections 166, 167, 466, 384 and 120-B of the Indian Penal Code against both the petitioners. On investigation, the Police submitted the Final Form on 28.12.2007 finding case untrue.



Thereafter, O.P. No. 2 filed the protest petition, which was treated as Compliant Case No. 1228 of 2009 in which on enquiry both the petitioners were summoned under Section 204 Cr.P.C. through the impugned order finding prima facie case under Sections 120-B, 166 and 167 of the Indian Penal Code.

4. Learned counsel for the petitioners submits that, in fact, in the camp Court of Circle Officer, Itarhi, the O.P. No.2 filed an application for mutation of his name and his brother Awadhesh Pandey, on the basis of sale deed executed by Vijay Shankar Pd. Gupta in respect to Plot No. 1335 of Khata No. 428 area one acre situated in village Itarhi which was numbered as Mutation Case No. 36 of 2007-08. On the same day order of mutation was passed at that time, petitioners were not present there. When the petitioners came to know about the mutation order, an application was filed before the Circle Officer, Itarhi to stay the mutation order on the ground that Vijay Shankar Gupta, who has executed the sale deed in respect of one acre of land of Plot No. 1335, Khata No. 485 of village Itarhi in favour of O.P. No.2 and his brother Awadhesh Pandey, is not the owner of said land rather the land is of Ram Laxman Janki temple. Thereafter, mutation order was stayed. The O.P. No.2 filed the Mutation Appeal No. 12 of 2009-10, which was allowed, but against the said order one Satish Chandra Gupta preferred the Mutation Appeal No. 03 of 2011 before the Addl. Collector, Buxar, which was allowed remanding the matter to the Circle Officer, Itarhi to enquire about the real possession in respect to the land and pass appropriate order. Further submission is that Vijay Shankar Prasad Gupta has filed the suit No. 42 of 2002 in the Court of Sub-Judge-I,



claiming as trustee of Ram-Laxman Janki temple declaring him trustee detailing the several plots including the Plot No. 1335 of Khata No. 485 of village Itarhi, which is detailed in complaint case No.547(C) of 2007 with further prayer that defendants third set has no concerned with temple and its property as detailed in the plaint. The said suit is still pending for decision. Further submission is that only to put pressure the O.P. No.2 filed the protest petition in Itarhi P.S. Case No. 69 of 2007 after submitting the Final Form which was numbered as Compliant Case No. 1228 of 2009 in which impugned order has been passed after enquiry under Section 204 Cr.P.C. summoning the accused petitioner for the offence under Sections 120(B), 166 and 167 of I.P.C.

5. Learned counsel for O.P.No.2, while submits that there is no illegality in the impugned order, but fairly submitted that T.S. No. 42 of 2002 filed by Vijay Shankar Prasad Gupta vender of O.P. No.2 to declare him as trustee of Ram Laxman Janki temple managing the property of temple as detailed in the plaint, including the Plot detailed in the Compliant Case No. 1228 of 2009 with further prayer to declare that defendant third set has no concerned with the Ram Laxman Janki temple and its property, is still pending for decision.

6. On going through the record, it appears that Vijay Shankar Prasad Gupta vendor of O.P. No.2 has filed the Title Suit No. 42 of 2002 for declaring him as trustee and managing the property of Ram Laxman Janki temple including the plot detailed in the Complaint Case No. 547 (C) of 2007 with further prayer that defendant Illrd set has no concerned with the temple and managing its property and said suit is pending for decision. As such, the compliant case No. 547 (C) of 2007



filed against the petitioners, who are Halka Karmachari and Anchal Amin is mala fide due to making objection after passing of the mutation order on the basis of the sale deed executed by Vijay Shankar Prasad Gupta in the Compliant Case No. 547 (C) of 2007 in favour of O.P. No.2 and his brother Awadhesh Pandey.

6. In the result, the impugned order dated 18.04.2011 passed in Complaint case No. 547 (C) of 2007, whereunder the Judicial Magistrate, 1st Class, Buxar summoned the accused-petitioners, on inquiry, under Section 204 of Cr.P.C. finding prima facie case under Sections 120-B, 166 and 167 of the Indian Penal Code and entire criminal proceeding of the said complaint case is hereby quashed. Accordingly, this application is allowed.

(Rajendra Kumar Mishra, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	07.12.2017
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