

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27610 of 2014

Arising Out of PS.Case No. -861 Year- 2013 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Smt. Rekha Kumari @ Rekha Jaiswal Wife of Krishna Mohan Kumar.
 2. Krishna Mohan Kumar Son of Sudama Prasad Both are resident of House No.-92, Sector-12, Vikas Nagar, P.S.- Vikas Nagar, Lucknow-226022 (Uttar Pradesh). Petitioners.

Versus

1. The State of Bihar.
 2. Ashok Kumar Jaiswal Son of late Rama Nand Prasad resident of mohalla- Nanmuhiya, Sher Shah Road, Kathktal, P.S.- Alamganj, District- Patna. Opposite Parties.
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Appearance :

For the Petitioners : Mr. Rajeev Ranjan Prasad, Adv.
For the Opposite Parties : Mr. J. Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

03 28-06-2017

This application has been preferred under Section 482 of the Code of Criminal Procedure to quash the order taking cognizance and to cancel the issuance of summons dated 30.01.2014 by the learned Judicial Magistrate, 1st Class-cum-Additional Munsif-III, Patna City, whereby finding a *prima face* case under Section 420 and 120-B of the Indian Penal Code in C.A. No.861/2013, the learned Court has ordered to issue summon against the petitioners.

As per the prosecution case, petitioners in connivance of the staff of the post office got entered the name of the petitioner no.1-Smt. Rekha Kumari as nominee in the Kisan Vikas Patra taken by his mother Binda Devi.

It has been submitted by learned counsel for the



petitioners that no *prima facie* case has been made out against the petitioners. The said Binda Devi happens to be the maternal aunt of the petitioner no.1 and had adopted her by adoption deed dated 17.12.1973. By virtue of the said adoption deed, petitioner no.1 happens to be the sole heir of Binda Devi and Binda Devi herself has given her name as nominee, as such no fraud has been committed by the petitioners. It is further submitted that the enquiry witnesses are close relations to the complainant and they are interested witnesses.

From perusal of the deed of adoption filed by the petitioners, as annexed to this application as Annexure-2, it transpires that the said adoption deed is not registered one and is not admissible in the evidence and cannot be taken into account. From perusal of the impugned order, it also transpires that considering the solemn affirmation of the complainant and the deposition of the four witnesses, the learned Court below finding *prima facie* case against the petitioners ordered to issue summon against them.

Thus, I find no illegality in the impugned order and this petition is devoid of any substance and is dismissed accordingly.

(Prakash Chandra Jaiswal, J.)

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