

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28058 of 2014

Arising Out of PS.Case No. -126 Year- 2013 Thana -ANDER District- SIWAN

- =====
1. Ram Sharan Yadav Son of Late Radhe Yadav
 2. Dinesh Yadav @ Dinesh Kumar Yadav
 3. Dhanesh Kumar Yadav Both Sons of Ram Sharan Yadav
- All Residents of Village-Chitaur, P.S.-Andar, District-Siwan.

.... Petitioners.

Versus

1. The State of Bihar.
 2. Sampat Yadav Son of Late Satyadeo Yadav Resident of Village-Sultanpur Dahabari, P.S.-Andar, District-Siwan.
- Opposite Parties.

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Appearance :

For the Petitioners : Mr. Alok Kumar, Adv.
Mr. Kaushal Kumar Singh, Adv.
For the Opposite Party No.2 : Mr. Javed Aslam, Adv.
For the State : Mr. Navin Kumar Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL JUDGMENT

Date: 19-07-2017

This petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of the order dated 17.05.2014 passed by the learned C.J.M., Siwan, whereby the learned Magistrate has taken cognizance under Sections 406, 420 and 120 B of the Indian Penal Code against the petitioners.

2. It has been submitted by learned counsel for the petitioners that in fact the agreement between the parties was to sell



out the land in question for a consideration of Rs.1,60,000.00. The petitioners went to the Registry Office for execution of the sale deed in favour of opposite party no.2. But the scribe prepared a deed of sale showing sale consideration of Rs.50,000.00 in-stead of the aforesaid amount, whereupon the petitioners made objection and left the Registry Office. Out of the three petitioners only one had signed the deed. Opposite party no.2 has filed this false and frivolous case to grab the consideration money as agreed. Moreover, there is no ingredient of cheating or dishonest intention on the part of the petitioners at the very beginning of the transaction. Hence, no offence under Sections 406, 420 and 120 B of the Indian Penal Code is made out against them.

3. It has been submitted by learned counsel for the opposite party no.2 that petitioners did agree to sell out the land in Rs.50,000.00 and, on giving said Rs.50,000.00 to the petitioners, a document was prepared spending thousands of rupees on the stamp paper and petitioner no.1-Ram Sharan Yadav put his signature on the said document but later on they refused to appear before the Registrar. The aforesaid aspect of the case candidly indicates the mala fide intention of the petitioners and petitioners have duped the opposite party no.2 of his aforesaid amount. Hence, prima facie case is made out against the petitioners under Sections 406, 420 and 120 B of the



Indian Penal Code.

4. Heard the parties and perused the record. From perusal of the records, it appears that Andar P.S. Case No.126 of 2013 was instituted under Sections 406 & 420 of the Indian Penal Code on the basis of a complaint petition filed by opposite party no.2 against the petitioners with the allegation in succinct that petitioners had agreed to sell out his land, bearing Khata No.106, Survey No.1117, admeasuring 8 dhur and 2 dhurki located in village Mitwar P.S. Andar, District Siwan, in favour of opposite party no.2 for sale consideration of Rs.50,000.00 and obtained the said amount from him. As per the agreement, both the parties turned up before the Registry Office and the petitioners after taking Rs.31,000.00 from opposite party no.2 purchased the stamp paper for execution of document and after scribing of the document petitioner no.1- Ram Sharan Yadav put his signature thereon but, subsequently, the petitioners left the Registry Office and did not execute the document in favour of opposite party no.2.

5. After investigation of the case, the Investigating Officer submitted the chargesheet under Sections 406, 420 and 120 B of the Indian Penal Code against the petitioners. On perusing the chargesheet and the case diary, the learned Magistrate took cognizance under Sections 406, 420 and 120 B against the petitioners



vide impugned order.

6. From the aforesaid case of the parties, it appears that petitioner no.1 has put his signature on the said document but the petitioners have not executed the said document in favour of opposite party no.2 in spite of putting signature by the petitioner no.1 on the document. Aforesaid aspects of the case smacks otherwise against the petitioners. The allegation and counter allegation of the parties are subject matter of trial and not to be considered at the stage of taking cognizance.

7. In the aforesaid facts and circumstances, I do not find any substance in this petition and is accordingly dismissed.

(Prakash Chandra Jaiswal, J.)

Trivedi/-

AFR/NAFR	NAFR
CAV DATE	NA
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