

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.4665 of 2015

Arising Out of PS.Case No. -348 Year- 2013 Thana -PATNA COMPLAINT CASE District- PATNA

- =====
1. Sant Lal Yadav
 2. Mundrika Pd Yadav Both Son of Late Rambriksh Yadav R/o Mathiapur Nargada, P.S- Shahpur, District - Patna.

.... Petitioners

Versus

1. The State of Bihar
2. Most. Kalawati Devi Wife of Late Jagdeo Rai R/o Mathiapur, P.S- Shahpur, District - Patna at present R/o South Mandiri (Kathpul), P.S- Budha Colony, District Patna

.... Opposite Parties

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Appearance :

For the Petitioners	:	Smt. Rina Sinha, Advocate
For the State	:	Sunil Kumar Pandey, APP
For O.P. No.2	:	None

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 22-11-2017

Heard learned counsel for the petitioners as well as learned Additional Public Prosecutor for the State. None appears on behalf of the complainant, opposite party no.2, even after receipt of the notice.

2. The petitioners seek quashing of cognizance order dated 21.09.2013, passed by Judicial Magistrate, 1st Class, Danapur in Complaint Case No.348C/2012 thereby taking cognizance of the offence under Sections 323, 419 and 504/34 of the Indian Penal Code.

3. The allegation in brief is that the complainant had no brother, so the accused persons got one Shyam Sundari Devi impersonated as her mother and got executed sale deed with respect to share of the father's land in the year 1977. When she got the



knowledge in the year 2012, she filed a complaint but before that she asked to accused persons to give $\frac{1}{4}$ share but they assaulted and abused.

4. Learned counsel for the petitioners submits that in fact a property dispute is going on between both sides and on earlier occasion Manoj Kumar Rai, Son of Parwati Devi, the sister of the present complainant had filed Complaint Case No.370/2013 against the present accused persons. In that case cognizance was also taken and the same was challenged by the petitioners in quashing application before this Court which was allowed by order dated 19.08.2014, passed in Cr. Misc. No.5058 of 2014. The complainant had also filed Title Suit No.161 of 2013 relating to the same land but now it has been dismissed for default.

5. Having considered the rival submissions and on perusal of the record, the Court finds that earlier with similar allegation a complainant was filed against the petitioners and the cognizance order taken in that case was quashed by this Court. Considering the allegation levelled in the present complaint, it appears that in order to settle the civil dispute, the present complaint has been filed, so continuation of the criminal proceeding in the present matter would be abuse of the process of the court. Hence, the entire criminal proceeding inclusive of the cognizance order dated 21.09.2013,



passed by Judicial Magistrate, 1st Class, Danapur in Complaint Case No.348C/2012 with respect to the petitioners is hereby quashed.

6. The quashing application stands allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
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