

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.33852 of 2014

Arising Out of PS.Case No. -1003 Year- 2013 Thana -MUZFFARPUR COMPLAINT CASE
District- MUZAFFARPUR

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1. Umesh Kumar Rai S/o Ramanand Rai
2. Ramanand Rai S/o Late Nanipat Rai Both Resident of Village Chakhazi and Chaknuran, P.S. Bochahan, District Muzaffarpur.

.... Petitioners

Versus

1. The State of Bihar.
2. Mosmat Shyama Devi W/o Late Santosh Kumar Jha @ Puttu Resident of Village Chacknuran, P.S. Bochahan, District Muzaffarpur.

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Mahendra Thakur, Advocate
For O.P. No.2 : Mr. Hari Kishore Thakur, Advocate
For the State : Mr. AjayKumar-I, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 25-08-2017

Heard learned counsel for the petitioners as well as learned counsel appearing on behalf of opposite party no.2 and learned counsel for the State.

2. The petitioners have filed this application under Section 482 of the Code of Criminal Procedure, 1973 for quashing the order dated 21.6.2014 passed by Judicial Magistrate, 1st Class, Muzaffarpur in Complaint Case No.1003 of 2013 whereby he has taken cognizance of the offence under section 420 of the Indian Penal Code.

3. Learned counsel appearing on behalf of the petitioners submits that the allegation against the petitioners levelled by the



complainant is that her husband was a drunkend and after having intoxication he executed sale deed in favour of petitioner no.1 whereas till the complainant's husband was alive no such complaint or any allegation was made either by the husband or by wife. Only after his death, the wife has filed this complaint. The sale deed executed by the husband of the complainant with respect to the land concerned is a registered sale deed and nowadays sale deeds or any registered documents executed by a person contains his photograph and finger prints, is taken before the Registrar. The petitioners purchased the said land after paying consideration money. Moreover, the petitioners have also filed a Title Suit No.97 of 2013 pending before the court of Sub-Judge 1st, Muzaffarpur with respect to the same land, so it is entirely a civil dispute.

4. Contrary to the said submission, learned counsel for the opposite party no.2 submits that the accused persons started making claim of the land only after the death of the husband and they got the sale deed executed from the complainant's husband in a drunken condition.

5. Having considered rival submissions and on perusal of record, this Court finds no prima facie any ingredient of cheating even after taking into account entire allegation levelled against the accused persons. The alleged sale deed is a registered document executed by



the husband of the complainant and the same was executed in the year 2013 moreover while the Vendor, the complainant’s husband, was alive no such allegation was levelled either by him or by his wife only after his death this complaint has been filed. However, as already stated no ingredients of the offence of cheating being made out taking into account the entire allegation of alleged facts stated in the complaint, so the continuation of the criminal proceeding in the instant case, i.e., Complaint Case No.1003 of 2013 pending in the court of Judicial Magistrate 1st Class, Muzaffarpur including the cognizance order dated 21.6.2014 would be abuse of the process of the Court, so the criminal proceeding in Complaint Case No.1003 of 2013 inclusive of the cognizance order dated 21.6.2014 pending in the court of Judicial Magistrate 1st Class, Muzaffarpur is set aside.

6. The petition stands allowed.

(Arun Kumar, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06-09-2017
Transmission Date	06-09-2017

