

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.367 of 2017

Arising Out of PS. Case No.-87 Year-2008 Thana- CHAPRA MUFFASIL District- Saran

Md. Jahangir Hussain, Son of Late Md. Shahid, resident of Village- Mahto Musahari at present Mohalla- Chhota Telpa, P.S.- Chapra Town, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sheikh Gulam Subhan @ Munna, Son of late Taffajul Hussain, resident of Village- Mahto Musahari at present Chanchaura, P.S.- Chapra, Muffasil, District- Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mahesh Narayan Parbat, Sr. Adv. Mr. Ved Prakash Srivastva Mr. Sanjay Kumar Jha
For the State	:	Mr. Upendra Kumar
For the O. P. No. 2	:	Ms. Sujata Sinha

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL JUDGMENT

Date : 03-08-2017

Heard learned Senior Counsel for the petitioner, learned Counsel appearing on behalf of the Opposite Party No. 2 and learned Additional Public Prosecutor representing the State of Bihar.

2. By the judgment and order, dated 31.01.2017, passed by learned Additional Sessions Judge VI, Saran, at Chapra, in Criminal Appeal No. 199 of 2013, the judgment and order of acquittal, dated 19.08.2013, passed by learned Judicial Magistrate, 1st Class, Saran, at Chapra, in G. R. No. 1916 of 2008 (Trial No.



3721 of 2013), arising out of Chapra Muffasil Police Station Case No. 87 of 2008 has been affirmed. Learned Judicial Magistrate, 1st Class, Saran, at Chapra, by the said judgment and order, dated 19.08.2013, had recorded acquittal of Opposite Party No. 2 of the charges under Section 419, 420, 467 and 468 of the Indian Penal Code. The said judgment and order, dated 31.01.2013, passed by learned Appellate Court and the judgment and order, dated 19.08.2013, passed by learned Trial Court, are being assailed in the present criminal revision application filed under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973.

3. The petitioner is the son of the informant of the said Chapra Mufassil Police Station Case No. 87 of 2008.

4. The case of the prosecution, as briefly narrated in the complaint case, is that on 01.06.2008, the Opposite Party No. 2 came to the informant's house and questioned as to why the informant was selling certain lands and claimed himself to be the owner of the lands on the basis of a gift deed, which was forged.

5. This is to be noted that the Opposite Party No. 2 and the deceased informant, namely, Late Md. Shahid, were full brothers, sons of Late Taffajul Hussain.

6. It is the case of the prosecution that the gift deed, which the Opposite Party No. 2 claimed to have been executed in



his favour by Abdul Latif was apparently forged since Abdul Latif had died in the year 1936 itself and, therefore, existence of signature of Abdul Latif and employee of the Registry Office on the said gift deed was an act of cheating and forgery. The informant alleged in the complaint petition that the petitioner was selling the share of the informant on the basis of the said forged gift deed. It was also alleged in the complaint petition that the land, in the name of said Abdul Latif, who had died issueless, came in the share of father of the informant and the Opposite Party No. 2, i.e. Taffajul Hussain, who had three sons. Allegedly, the Opposite Party No. 2 managed to get entered his name in Register II and in Mutation Case No. 04 of 2006-07, the Opposite Party No. 2 got decided the case in his favour without any information to the informant. Accordingly, it was alleged in the complaint petition, that the Opposite Party No. 2 committed an act of cheating by preparing forged gift deed with respect to the lands of Khata Nos. 107 and 108, Plot Nos. 4351 and 4352, having area of more than three bighas of Touzi No. 3558. The complaint petition, containing allegations to these effects, was subsequently registered as Chapra Muffasil Police Station Case No. 87 of 2008, under Section 156 (3) of the Code of Criminal Procedure, 1973.



7. Learned Senior Counsel appearing on behalf of the petitioner has made elaborate submissions to convince this Court that on the basis of evidence adduced at the trial, the prosecution was able to establish the charged framed against the Opposite Party No. 2 beyond shadow of all reasonable doubts, but the learned Trial Court recorded acquittal, without duly appreciating evidence so adduced at the trial.

8. I have perused the judgment of the Trial Court as well as the Appellate Court carefully. The entire case of the prosecution depends upon the plea that Abdul Latif died on 23.08.1936 and, therefore, he could not have executed the gift deed, on 28.02.1966. The Courts below, on appreciation of evidence, has, however, come to the conclusion that no reliable evidence could be adduced by the prosecution that the gift deed, in question, was false and fabricated document. The Courts noticed that civil case was pending between the two parties in relation to the same dispute. The Courts also noticed that mutation case had also been decided in favour of Opposite Party No. 2.

9. I do not find any perversity in the findings recorded by the Courts below. There is apparently concurrent findings of fact recorded by the Courts below, leading to acquittal of Opposite Party No. 2. In revisional jurisdiction, the Court is not required to



re-appreciate the evidence, which has already been done by the Appellate Court. The Courts below have discussed the evidence adduced at the trial while recording their findings. The findings cannot be said to be perverse, in my view.

10. Whether the gift deed, in question, is valid or not, is a dispute, which can be decided in a duly framed suit. The impugned judgments and orders do not require any interference. This application is accordingly dismissed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N/A
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