

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.26550 of 2014

Arising Out of PS.Case No. -472 Year- 2010 Thana -JEHANABAD COMPLAINT CASE District-
JEHANABAD

=====

1. Banwari Sao
2. Murwari Soa
3. Budhan Sao
4. Chandeshwar Sao All Sons of Late Masudan Sao Residents of Village -
Pipra Bangla. P.S. and Dist.-Arwal
5. Ram Pravesh Sao
6. Yamuna Sao Both Sons of Late Raja Ram Sao Residents of Village :
Haspura, P.S. Haspura, Dist.-Aurangabad
7. Ram Nath Sao, Son of Bablu Sao, Resident of Village : Barhara, P.S.
Haspura, Dist. : Aurangabad
8. Jhalkdeo Yada, Son of Late Deo Narayan Sao
9. Ravindra Kumar, Son of Sri Marwari Sao Both Residents of Village :
Pipra Bankla, P.S. & District : Arwal Petitioners

Versus

1. State of Bihar
2. Sri Mangal Prasad, Son of Ram Chandra Sao, Resident of Village : Pipra
Bangla, P.S. and District : Arwal Opposite Parties

=====

Appearance :

For the Petitioners : Mr. Jai Shankar Prasad Singh, Advocate
For the Opposite Parties : Mr. Jharkhandi Upadhyay (App)

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

- 7 01-11-2017 1. The present petition has been filed for quashing the

order dated 19.01.2011 passed by learned Chief Judicial

Magistrate, Jehanabad in Complaint case no. 472 of 2010 whereby

and whereunder cognizance has been taken against the petitioners

under Sections 420, 468, 471 of Indian Penal Code.
2. The short facts of the case are that the opposite party

no. 2 has filed the aforesaid complaint stating therein that the

complainant had purchased a land pertaining to khata no.

1240/690 and 1241/691 area 13 ¼ decimals and khata no.

245/287, plot no. 1240/690 area 1 ¼ decimals and plot no.

1241/691, area 11 ½ decimals through registered sale deed dated



31.08.1992 and 25.03.1994 from one Raghvendra Narayan Ojha and Smt. Bindeshwari Devi. Similarly, the mother of the complainant had purchased lands from Arbind Ojha vide khata no. 245/287, plot no. 1240/690, area 2 ½ decimals, plot no. 690, area 11 ¼ decimals and 691, area 111 ½ decimals on 16.11.1992 and 27.07.1992. It has been alleged that after purchase of the land in the year 1992 mutation was done in favour of the complainant and his mother and accordingly in some part of the land the complainant had constructed the house. It has been further stated in the complaint that the opposite party no. 2 came to know about the purchase of the land by one Sri Bhagwan Das whereafter, he obtained the registered document dated 10.05.2010 and then he has preferred the aforesaid complaint since the land was purchased by the said Bhagwan Das in connivance with the petitioners herein.

3. The learned trial court by an order dated 19.01.2011 has been pleased to take cognizance against the petitioners herein and the said order dated 19.01.2011 is under challenge before this Court.

4. The learned counsel for the petitioners submits that the said Bhagwan Das had filed a Title Suit bearing no. 41 of 2011 before the learned court of Sub Judge-II, Jehanabad wherein the opposite party no. 2 was also one of the defendants apart from the other defendants who are petitioners herein. The aforesaid Title



Suit no. 41 of 2011 has been decreed in favour of the purchaser of the said land i.e. Sri Bhagwan Das by a judgment dated 06.11.2015 which has been brought on record by the petitioners by a supplementary affidavit dated 18.07.2013 and the said judgment has been annexed as Annexure 7 to the supplementary affidavit from which, it is clear that the title suit has been decreed in favour of plaintiff of the said suit namely Bhagwan Das.

It is further contended that the said Bhagwan Das had approached this Hon'ble Court for quashing of the said order dated 19.01.2011 by filing Cr.Misc. no. 17290 of 2011 and by order dated 27.11.2012, this Hon'ble Court, finding the allegations leveled in the complaint petition to be purely of a civil nature, had quashed the order taking cognizance dated 19.01.2011. It is further contended that a bare perusal of the entire complaint petition would show that the allegations leveled therein are purely in the nature of a civil dispute hence, the order taking cognizance is an abuse of the process of the Court.

5. I have perused the materials available on record and find that the allegations leveled in the complaint petition are purely of a civil nature and at best, constitute a civil dispute for which, the remedy lies before the competent court of civil jurisdiction. Nonetheless, the fact remains that as far as the purchaser i.e. Sri Bhagwan Das is concerned, the order dated 19.01.2011 as against him, has been quashed as well as the suit



filed by him has been decreed in his favour and the case of the defendant therein who is opposite party no. 2 herein has been found to be incorrect.

6. It is a trite law that if the allegations leveled in the complaint petition, taken on their face value, discloses only a civil wrong, it would be an abuse of the process of the Court to permit the continuance of the criminal proceedings. In this connection, reference be had to a judgment of the Apex Court reported in *(2006) 6SCC 736, Indian Oil Corporation vs. NEPC India Ltd. and others.*

7. Having regard to the facts and circumstances of this case, the order dated 19.01.2011 passed by the Chief Judicial Magistrate in complaint case no. 472 of 2010, Jehanabad whereby and whereunder cognizance has been taken, is quashed as well as the entire criminal proceedings as against the petitioners herein are also set aside.

8. The petition is allowed however, without any order as to cost.

(Mohit Kumar Shah, J.)

rinkee/-

U		T	
---	--	---	--

