

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32783 of 2014

Arising Out of PS.Case No. -272 Year- 2014 Thana -MUNGER COMPLAINT CASE District-
MUNGER

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1. Kailash Pd. Yadav S/o Late Prabhunath Yadav
2. Lakhan Lal Yadav S/o Late Prabhunath Yadav
3. Uday Kant Yadav S/o Duleshwar Yadav all R/o Village - Mahkara, P.S. Belhar, District - Banka
4. Achambhi Pd. Yadav S/o Late Siyaram Pd. Yadav
5. Anil Pd. Yadav @ Anil Kr. Yadav S/o Late Siyaram Pd. Yadav
6. Gopi Chand Azad S/o Late Bhikhari Yadav All resident of village - Shankarpur, P.S. Mufasil, District – Munger Petitioners

Versus

1. The State of Bihar
2. Parmanand Prasad Yadav @ Premanandan Yadav S/o Late Shritlal Prasad Yadav R/o village - Milkichak No. 1, P.S. Naya Ram Nagar, Distt. - Munder, At present Mohalla - Gaytri Nagar, Purab Sarai, P.S. Kotwali, District – Munger Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Mukherjee, Advocate
For the respondent : Mr. Abhishek Kumar, Advocate
For the Opposite Party/s : Mr. Rajendra Pd. Nat(App)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 16-08-2017

Heard Sri Ajay Mukherjee, learned counsel for the

petitioners and learned counsel for opposite party no. 2.

The short facts of the case are that the opposite party no. 2 had filed a complaint case bearing Complaint case no. 272(C) of 2014 against the accused persons (petitioners herein). The petitioner no.1 is said to be the husband of the deceased who is said to be the second wife of the complainant/ the opposite party no. 2. Petitioners no. 2 and 3 are brothers of petitioner no. 1. Petitioners no.4 and 5 are brothers of the deceased Ful Kumari and petitioner no. 6 is the cousin brother of the deceased Ful Kumari. It has been alleged in the complaint petition that while the marriage of Ful Kumari with the opposite party no. 2 was



subsisting, Ful Kumari died a natural death and thereafter, her retrial dues etc. are being attempted to be swindled by the petitioners herein i.e. the accused persons.

The learned J.M. 1st class, Munger by an order dated 08.05.2014 passed in the aforesaid Complaint case has been pleased to summon the accused persons i.e. the petitioners herein.

It has been brought on record that petitioner no. 1 has obtained a succession certificate by virtue of an order dated 12.09.2013 passed by the learned Court of Sub-Judge 1st, Banka in Succession case no. 01 of 2013 and pursuant to that, the petitioner no. 1 is trying to withdraw the retrial dues of the deceased Ful Kumari.

It has been further brought on record that the complainant i.e. the opposite party no. 2 has infact withdrawn the retrial dues which is borne out from the letter no. 1972 dated 26.06.2014 written by the In-charge Medial Officer, Primary Health Centre, Jamalpur to the complainant/ opposite party no. 2.

The learned counsel for the opposite party no. 2 further submits that the aforesaid order dated 12.09.2013 passed by the learned Court of Sub-Judge 1st, Banka in Succession case no. 01 of 2013 has already been challenged by him in appeal.

Be that as it may, the fact remains that the dispute in question is purely civil in nature and the parties have already



taken steps for resolving the same by means of approaching the competent court of civil jurisdiction.

Having regard to the facts and circumstances of the case, I find that the dispute is purely civil in nature and therefore, no cognizable offence as alleged is made out against the accused persons i.e. the petitioners herein, hence, continuance of criminal proceeding would be an abuse to the process of the Court. In fact a bare perusal of the complaint shows that the allegations leveled therein do not prima facie constitute any offence or make out a case against the petitioners herein.

For the reason stated hereinabove, the petition is allowed. The order dated 08.05.2014 passed in Complaint case no. 272(C) of 2014 is set aside and all the criminal proceedings arising thereof are also quashed.

It is clarified that quashing of the complaint case in question will not hamper the rights of the parties in the civil proceeding already going on and will not constitute a decision on the merits of the case of the respective parties.

There shall be no order as to costs.

(Mohit Kumar Shah, J.)

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