

Arising Out of PS.Case No. -255 Year- 2013 Thana -BAKHTIYARPUR District- PATNA

.... Petitioner/s

.... Opposite Party/s

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 19-08-2017 1. Heard the learned counsel for the petitioners
however, the learned counsel for the opposite party no. 2 has not
appeared despite repeated calls and he was also not present when
the matter was taken up on 09.08.2017 on which date, it was made
clear that if the counsel for the opposite party no. 2 is not present
on the next date of hearing, the Court would proceed with the
hearing.



petition) and the said land has been in joint possession of the joint family. It has been further alleged that the accused persons, with the intention of grabbing the land, had come to Barh and purchased a non-judicial stamp paper on 08.10.2013 and had submitted the same for registration but upon objection in the office of the Registrar, the document could not be registered. Subsequently, the sale deed was executed after minor rectification and when the complainant had objected to the same, the accused persons had demanded a sum of Rs. 5 lacs. The aforesaid complaint case no. 864 (C) of 2013 has been forwarded by the Magistrate under Section 156(3) of Code of Criminal Procedure and the police had registered an FIR bearing Bakhtaiyarpur PS case no. 255 of 2013 dated 15.11.2013 for the offences punishable under Sections 384, 420, 467, 468, 471, 504, 506 of Indian Penal Code.

3. The Sub-Divisional Judicial Magistrate, Barh by an order dated 11.07.2014 passed in Bakhtiarpur PS case no. 255 of 2013 (G.R. no. 1904 of 2013) has been pleased to take cognizance of the offence punishable under Sections 384, 420, 467, 468, 471, 504, 506 of Indian Penal Code against the accused persons including the petitioners herein.



4. The aforesaid order dated 11.07.2014 is under challenge in the present petition.

5. The learned counsel for the petitioners submits that even if all the allegations leveled in the complaint petition are accepted to be true, no cognizable offence is made out and the dispute is purely civil in nature.

Per contra, although the learned counsel for the opposite party no. 2 is not present, a counter affidavit has been filed on behalf of him, wherein it has been disclosed that a title suit bearing T.S. no. 237 of 2013 is pending in the court of Sub Judge-I, Barh (Patna) and the petitioner may be directed to establish his title over the land in question in the said title suit. This statement can be found in paragraph 11 of the counter affidavit filed by the opposite party no. 2.

7. I have gone through the materials on record and perused the complaint petition as also heard the learned counsel for the petitioner and also perused the counter affidavit filed by the opposite party no. 2. From the record, I find that the present case is purely a dispute of civil nature. Admittedly, a title suit is pending between the parties pertaining to the land in dispute. A bare perusal of the complaint petition would show that prima facie, no cognizable offence is made out for the Sections of the



Indian Penal Code said to be leveled in the F.I.R.

8. It is a trite law that *“any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged. Reference be had to a case reported in (2006) 6SCC 736 (Indian Oil Corporation vs. NEPC India Ltd.). The Hon’ble Apex Court in the said judgment i.e. Indian Oil Corporation vs. NEPC India Ltd. (supra) has further cautioned that there is growing tendency in business circles to convert purely civil disputes into criminal cases since civil law remedies are time-consuming, as such any effort to settle civil dispute and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged.”*

9. Having regard to the facts and circumstances of the case as also the law laid down by the Hon’ble Apex Court, it is clear that the allegation leveled in the connected complaint appears to be purely a civil dispute and has been given a colour of criminal case only with a view to extract money from the petitioner or may be for the purpose of expediting the civil litigation. I find that neither the allegations made in the complaint, even if they are taken on their face value and accepted in their



entirety, constitute any *prima facie* offence nor disclose commission of cognizable offence as against the petitioners herein however, a bare perusal of the complaint shows that the nature of dispute is civil and does not involve any criminal offence.

10. For the reasons mentioned hereinabove, the order dated 11.07.2014 in Bakhtiyarpur PS case no. 255 of 2013 (G.R. no. 1904 of 2013) is set aside and all other criminal proceedings emanating therefrom are also quashed.

11. There shall be no order as to costs.

(Mohit Kumar Shah, J.)

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