

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40096 of 2013

Arising Out of PS.Case No. - Year- Thana - District- BHABHUA (KAIMUR)

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1. Banshropan Singh S/O Late Bikrama Singh Resident of Village Lawedaha, P.S. Ramgarh, District Kaimur At Bhabhua.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Tej Narayan Ram S/O Reenan Ram Resident of Village + P.S. Mohania, District Kaimur at Bhabhua.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shyam Bihari Singh, Advocate

For the Opposite Party/s : Mr. Md. Arif, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 13-04-2017

Heard both sides.

2. The petitioner filed this petition, under Section 482 of the Code of Criminal Procedure, for quashing the order dated 15.04.2010 passed in Complaint case No. 111 of 2009 by which the learned Sub-divisional Judicial Magistrate, Bhabhua found prima facie case under Section 406, 420, 467, 468 of the IPC to proceed against the petitioner.

3. The complainant/ opposite party No.2 narrated the story in the complaint petition that the petitioner executed a sale deed with regard to plot No. 76, area 44 decimals of Khata No. 66/51, situated in Mauza Sanai, P.S. Mohania, district, Bhabhua on consideration of



Rs. 1,47,000/-. The complainant further alleged that when he went to the land, he came to know that petitioner had already executed sale deed with regard to the same land in favour of Ram Murat Bind, S/o Shiv Murat Bind. The complainant examined his witnesses and the learned Sub-divisional Judicial Magistrate, after perusing the same, found prima facie case under Section 406, 420, 467, 468 of the IPC to proceed against the petitioner.

4. The learned counsel for the petitioner submits that no offence under Section 406, 420, 467, 468 of the IPC is made out against the petitioner, on perusal of the entire complaint case. There is no criminal breach of trust. The petitioner did not misrepresent any facts nor cheated the complainant. The petitioner did not make any interpolation or committed forgery in any document. The complainant has not filed any document to show that petitioner ever committed any forgery in any manner.

5. It is further submitted that the order itself is non speaking and does not disclose any reason finding prima facie case under Section 406, 420, 467, 468 of the IPC against the petitioner.

6. In reply, the learned counsel for the complainant/opposite party No.2 submits that, of course, the impugned order does not disclose any reason of its finding.

7. Having considered the submission of learned counsel



for the parties and on perusal of the impugned order dated 15.04.2010, I find that the learned Sub-divisional Judicial Magistrate has not, at all, discussed, even in brief, the evidence nor recorded any reason to come to the finding as to why prima facie case is made out and on this ground alone the order is not sustainable.

8. Accordingly, the order dated 15.04.2010 passed by the learned Sub-divisional Judicial Magistrate, Bhabhua in Complaint case No. 111 of 2009 is set aside and the matter is remitted to the learned court below to pass order afresh after giving reasons, in brief, for finding prima facie case.

This quashing petition is allowed.

(Prabhat Kumar Jha, J)

BKS/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	19.04.2017
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