

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43899 of 2013

Arising Out of PS.Case No. -1173 Year- 2012 Thana -KATIHAR COMPLAINT CASE District-KATIHAR

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1. Faiz Alam Munna, son of late Rafi Ahmad, Resident Of Mofarganj, Police Station Katihar, District - Katihar
 2. Md. Noor Alam, Son Of Late Sheikh Imam, Resident Of Village - Paschami Tola, Dharuwa, Police Station - Dand Khora, District - Katihar
 3. Md. Mohsin, Son Of Sheikh Dilawar, Resident Of Village - Dharuwa, Tola Sarbanna, Police Station Dand Khora, District - Katihar
 4. Md. Salahuddin, Son Of Late Karim Bux, Resident Of Village - Dharuwa, Police Station Dand Khora, District - Katihar
 5. Md. Javed, Son Of Mumtaz, Resident Of Village - Dharuwa, Police Station Dand Khora, District - Katihar

.... Petitioner/s

Versus

1. The State Of Bihar
2. Ram Prayag Chaudhary, son of late Satya Narayan Chaudhary, resident of village - Mohna Chandpur, Post Office Samrha, Police Station Barari, District - Katihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Khatim Reza, Advocate.

For the Opposite Party/s : Mr. Ashok Kumar Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 18-04-2017

1. This application has been filed for quashing the order dated 29.6.2013 by which the learned Chief Judicial Magistrate, Katihar, took cognizance under Sections 420, 465 and 468 read with Section 34 of the Indian Penal Code in C.A. Case No. 1173 of 2012 against the petitioners and four others namely, Sheikh Samsul Haque, Sheikh Muzaffar, Sheikh Jahir and Sheikh Zakir (Accused No. 1 to 4 in complaint petition).

2. Heard both parties.

3. There is allegation in the complaint petition that



complainant has purchased the land, in dispute, as mentioned in the complaint petition from forefather of vendor of these petitioners vide sale deed dated 27.6.1960 and 3.6.1975 as mentioned in the complaint petition. The vendor of these petitioners (accused No. 1 to 4) executed sale deed in favour of petitioner Nos. 1, 2, 3 who are purchaser of the aforesaid property and accused No. 1 to 4 is vendor as mentioned in the complaint petition whereas petitioner Nos. 4 and 5 are witnesses and identifier of the aforesaid sale deed. The court below on the basis of Solemn Affirmation of the complainant and statement of two enquiry witnesses found prima facie case against the petitioners for the offence under Sections 420, 465, 468 read with Section 34 of the Indian Penal Code.

4. The learned Magistrate is only required to see whether prima facie case is made out or not on the basis of allegation made in the complaint and statement of witnesses recorded during enquiry including Solemn Affirmation of the complainant.

5. The complainant in his Solemn Affirmation and other witnesses during enquiry have supported the allegation as made in the complaint petition. The Xerox copy of Solemn Affirmation of complainant and statement of witnesses recorded during enquiry are annexed as Annexure 3 to this petition.

6. Therefore, this Court does not find any illegality in the impugned order.

7. Accordingly the application stands dismissed.



8. Petitioner is given liberty to raise all the points as raised in this petition at the time of framing of charge, which shall be considered on its own merit in accordance with law by the court below.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	26.04.2017
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