

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.206 of 2014

Arising Out of PS.Case No. -78 Year- 2012 Thana -HATHAURI District- SAMASTIPUR

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1. Ramchandra Singh @ Ramchandra Mandal, Son of Late Ramkripal Mandal R/O Chitaurha, P.S.-Hathauri, Distt-Samastipur
 2. Ram Kishore Mandal Son Of Bharat Mandal R/O Village-Unki Baniar, P.S.-Hathauri, Distt-Samastipur
 3. Chandrakant Prasad Karan @ Chandrakant Prasad, Son Of Late Kamal Narayan Lal R/O Village-Malipur, P.S. Garhpura, Distt-Begusarai

.... Petitioners

Versus

1. The State of Bihar
2. Raj Kumar Jha, Son of Sri Kapleshwar Jha R/O Dashaut Toli, Bhanpur, P.S. Hathauri, Distt-Samastipur

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Mira Kumari, Advocate
For the Opposite Party/s : Mr. Shailendra Kr. Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT

Date: 06-10-2017

Heard learned counsel for the petitioner, learned counsel appearing on behalf of O.P. No.2 and also learned A.P.P. for the State.

2. This application has been filed under Section 482 of the Code of Criminal Procedure to quash the order dated 22.07.2013 passed in Hathauri P.S. Case No. 78 of 2012, whereunder the S.D.J.M. Rosera, Samastipur took the cognizance of the offence under Sections 420, 467 and 468 of the Indian Penal Code against four accused named in the F.I.R. including the petitioner.

3. The fact leading to this application is that O.P. No.2 Raj Kumar Jha filed the Complaint Case No. 707 of 2012 in the Court of Addl. Chief Judicial Magistrate, Rosera to the effect that Plot No. 3342, 3343, 3344, 3354 and 3346 situated in village Dashaut Tola Bhanpur,



P.S. Hathauri, District-Samastipur are his residential and homestead land. On 23.03.2011 Ram Krishna Rai executed the gift deed in the name of Shree Shree 108 Hanuman Temple, village Dashaut Tola Bhanpur, P.S. Hathauri, District-Samastipur on which the petitioner No.1 Ramchandra Singh @ Ramchandra Mandal and petitioner No.2 Ram Kishore Mandal put their signatures as witness and the gift deed was drafted by accused-petitioner No.3 Chandrakant Prasad Karan @ Chandra Kant Prasad, while accused Ram Krishna Rai had no concerned to the said land. On 07.07.2012, Ram Krishna Rai along with others abused and forbade in repairing the house situated on the said land regarding which Hathauri P.S. Case No. 64 of 2012 is also instituted. The aforesaid Complaint Case filed by O.P. No.2 was sent under Section 156(3) of the Cr.P.C. to the Police Station Hathauri, on which basis Hathauri P.S. Case No. 78 of 2012 was instituted on 06.08.2012 under Sections 420, 467 and 468 of the Indian Penal Code against petitioners and one Chandra Bhushan Rai. After investigation, the Police submitted Chargesheet under sections 420, 467 and 468 of the Indian Penal Code. Thereafter, Addl. Chief Judicial Magistrate, Rosera took the cognizance for the offence under Sections 420, 467 and 468 of the Indian Penal Code against petitioners and Ram Krishna Rai.

4. Learned counsel appearing on behalf of petitioners submits that, in fact, one Chandra Bhushan Rai executed the gift deed in favour of Shree Shree 108 Hanuman Temple situated in village Dashaut Tola Bhanpur, P.S. Hathauri, District-Samastipur. The petitioner Nos.1 and 2 only put their signature as a witness on the gift deed which was drafted by petitioner No.3. Moreover, the petitioners are not beneficiaries



of gift deed executed by Chandra Bhushan Rai in favour of Shree Shree 108 Hanuman Temple situated in village Dashaut Tola Bhanpur, P.S. Hathauri, District-Samastipur. Moreover, the dispute is of civil in nature.

5. On perusal of the complaint petition, which is the basis of the F.I.R., dispute appears to be of civil in nature. As such continuance of criminal proceeding on taking the cognizance under Sections 420, 467 and 468 of the Indian Penal Code through the impugned order against the petitioners and Ram Krishna Rai would amount to abuse of the process of court.

6. In the result, the impugned order dated 22.07.2013 passed in Hathauri P.S. Case No. 78 of 2012 taking the cognizance of the offence under Sections 420, 467 and 468 of the Indian Penal Code against the petitioners and Ram Krishna Rai by the Court of SDJM, Rosera and entire criminal proceeding is hereby quashed and this application is allowed.

(Rajendra Kumar Mishra, J)

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AFR/NAFR	NAFR
CAV DATE	N.A
Uploading Date	12.10.2017
Transmission Date	12.10.2017

