

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41096 of 2013

Arising Out of PS.Case No. -139 Year- 2012 Thana -SITAMARHI COMPLAINT CASE District -
SITAMARHI

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1. Md. Abul Qualam @ Chand Son Of Late Basir Resident Of Village - Thikaha,
P.S. - Nanpur, District - Sitamarhi

2. Md. Menhadi, Hasan Son Of Late Zamir Hasan Resident Of Village - Thikaha,
P.S. - Nanpur, District - Sitamarhi

3. Md. Shoeb Son Of Late Nazir Resident Of Village - Thikaha, P.S. - Nanpur,
District - Sitamarhi

4. Md. Nazuni Khatoon @ Nazama Khatoon Resident Of Village - Thikaha, P.S. -
Nanpur, District - Sitamarhi

.... Petitioner/s

Versus

1. The State Of Bihar

2. Md. Shafikul Haq Son Of Late Kalam Hussain Resident Of Village - Thikaha,
P.S. - Nanpur, District - Sitamarhi

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Jha, Adv.

For the Opposite Party/s : Mr. Rajendra Pd Nat, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

CAV JUDGMENT

Date: 11-04-2018

Heard learned counsel for the parties.

This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioner for quashing of order dated 27.04.2013 passed by the learned Judicial Magistrate, 1st Class, Pupari in Tr. No. 1036 of 203 corresponding to Complaint No. Ci-139 of 2012 whereby the learned court below took cognizance against the petitioners under Sections 420, 465, 34, 504, 379 and 120(B) of the Indian Penal.

The brief facts of this case is that son-in-law, namely, Md. Shoeb, of the complainant after taking the wife of the complaint



in belief took impression of her five fingers and got Kewala of 1 acre 70 decimals executed by her mother-in-law and when the complainant requested him to returned it back the petitioners have abused and assaulted the complainant and took away the ornament and cash of Rs. 5500/- Hence, the complainant left with no option lodged the complaint case.

Learned counsel for the petitioners has submitted that prior to execution of deed in question, Bebi Saharabano had executed one sale deed in favour of the petitioner No.3 after taking the consideration money, which is evident from annexure-4 to the supplementary affidavit. Further also Bebi Saharabona executed the sale deed in favour of another person, which is evident from annexure-5. After lodging the complaint case the son of the complainant has filed a Title Suit No. 223 of 2011 for declaring the sale deed in question as forged and fabricated although the said deed has been executed after taking the consideration amount. On the above ground, it is submitted that the cognizance order dated 27.04.2013 passed by the learned Judicial Magistrate, 1st, Class, Puprari, is bad in law and is fit to be quashed.

Learned counsel appearing for the State opposes the application by contending that there are allegations against the petitioners and the court below after going through the materials available on record has found a prima facie case against the



petitioners and rightly taken cognizance for the offences under Sections 420, 465, 34, 504, 379 and 120(B) of the Indian Penal Code. Therefore, the order taking cognizance does not require any interference.

From perusal of the material on record and looking into the facts of the case, it appears that although a Title Suit No. 223 of 2011 for declaring the sale deed in question as forged and fabricated has been filed by the son of the complainant but before filing of the said suit, a complaint case was lodged against the petitioners by the complainant for the alleged offence under Section 420, 465, 34, 504, 379 and 120(B) of the Indian Penal Code and on the basis of the complaint, the learned Judicial Magistrate, 1st Class, Pupari, after going through the complaint and S.A. of the complainant has rightly taken cognizance under Sections 420, 465, 34, 504, 379 and 120(B) of the Indian Penal Code, therefore, the said order taking cognizance does not require any interference by this Court in exercise of powers conferred under Section 482 of the Cr.P.C.

This application is, accordingly, dismissed.

(Arvind Srivastava, J)

brajesh/-

AFR/NAFR	NAFR
CAV DATE	01.12.2018
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