

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27430 of 2015

Arising Out of PS. Case No.-521 Year-2014 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Manju Devi wife of late Harindra singh@Harindra kumar Singh
 2. Prahlad kumar son of late Harindra singh@Harindra kumar singh
 3. Arun singh son of late Bangali singh
 4. Siku Singh son of Arun Singh
 5. Shardanand Singh Son of late Ram Sahay Singh
 6. Mamta Devi wife of Birju Sah
 7. Birju Sah Son of late Raj Kishore Sao
 8. Ajay Singh Son of Naresh Singh
 9. Harsh Deo Singh Son of Ramsingar Singh All residents of
Village - Masadhi, P.s Gaurichak, District Patna ... Petitioners
- Versus

1. The State of Bihar
 2. Shyam Nandan Singh Son of late Paltan Singh All residents of Village -
Masadhi, P.s Gaurichak, District Patna ... Opposite Parties
-

Appearance :

For the Petitioners : Mr. Kumar Uday Singh, Adv.
For the Opposite Parties : Mr. Zainul Abedin, APP

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

3 28-03-2018 None appears for the applicants on the last date

also and, therefore, the matter was passed over.

Today also, when the case is taken up, neither the
opposite party no. 2 nor his counsel is present.

In view of the above I proceed to deal with the
matter.

Heard the applicants and dispose of the matter as
the case is pending since 2015 and the proceedings before the
trial Court has been stayed for more than two years.

Seeking quashing of an order, dated 29.04.2014,
passed by the Chief Judicial Magistrate, Patna City, Patna,



taking cognizance in Complaint Case No. 521 of 2014 and dragging prosecution of the applicants for offences under Sections 147, 148, 323, 341, 447, 379, 465, 467, 468, 472, 420, 120B and 34 of the Indian Penal Code. This application has been filed under Section 482 of the Criminal Procedure Code.

It is the case of the applicants that the complainant and his grandfather, namely, Niru Singh, have three sons, they are late Paltan Singh, Bangali Singh and Shardanand Singh. It is said that they have a separate property and they have got nothing to do with the property belonging to the petitioners' family. The land allotted to the family of the complainant is recorded separately. Their shares have been recorded in Register II and mutated in their name by the competent authority, namely, Anchal Adhikari.

With regard to the plot in question bearing thana no. 84, khata no. 325, survey plot no. 1247 having area $\frac{1}{2} \times \frac{1}{2}$ decimal, it is stated that same fell into the share of the petitioners and their family and it is said that on 03.06. 2011, the applicants, herein, namely, Manju Devi (petitioner no. 1) and accused no. 2, Arun Singh (petitioner no. 3 here) sold the aforesaid property belonging to the complainant to one Mamta Devi, wife of Birju Sah. The allegation in the property is that it



has been illegally transferred the property belongs to the complainant, who is the title holder, and the petitioners, herein, in connivance with complainant and Mamta Devi and her husband Birju Sah have transferred the property of the petitioners, which amounts to offence of cheating and criminal conspiracy.

However, the applicants, herein, in the supplementary affidavit, filed, has brought on record overwhelming document which goes to show that between the parties, in question, title suit for the property is pending and the complainant has instituted Title Suit No. 19 of 2014 for declaring the sale deed in question dated 03.06.2011 as null and void as also of declaration of their title in question. That apart in the sale deed executed on 03.06.2011, the applicants have executed in their name based on the written statement filed in the said suit.

That be so, it is a case where the question of title between the complainant and petitioners 1, 2 and 3 are in dispute and it is not a case where on the bare reading of the material the criminal material is made out and contrary to that a title suit bearing Title Suit No. 19 of 2014 is pending in the Court of competent jurisdiction at the instance of Shyam



Nandan Singh, the complainant and opposite party no. 2, accordingly, finding the case in hand to be civil in dispute pertaining to right and title, I am of the considered view that no offence under Section 420 of the Indian Penal Code is made out. As on date the revenue records and the sale deed indicate that no criminal offence committed by the applicants and on bare reading of the complainant and evidence available on record I quash the **proceedings**.

This application is **allowed**.

(Rajendra Menon, CJ)

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