

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.58651 of 2017

Arising Out of PS.Case No. -123 Year- 2017 Thana -
GOVERNMENT OFFICIAL COMP. District- PATNA

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Ashok Kumar Singh, Son of Late Shiv Kumar Singh,
resident of Flat No. 3a (Block-C), 3rd Floor, Sheesh Mahal
Apartment Bahadurpur, P.S. Bahadurpur, Dist.- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Shri Baij Nath Prasad Singh, Son of Late Ram Bujhawan Singh, residence of Mauza Bahadurpur, P.S. Sultanganj (Old), Present Bahadurpur, Dist.- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Surya Kant Mishra

For the Opposite Party/s : Mr. Sri Jai Narain Thakur

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 21-03-2018 The O.P. No. 2/Baij Nath Prasad Singh is the plaintiff in Title Suit No. 99 of 2010. The petitioner was one of the defendants in the aforesaid suit. He preferred a petition under Order 7, Rule 11, seeking rejection of plaint on the ground of defect regarding Court fee. His assertion before the Court below was that the Court fee which had been affixed on the Title Suit was forged. The Trial Court rejected the petition of the defendant/petitioner.

Against the aforesaid order of rejection, the petitioner approached this Court vide C.W.J.C. No. 1649 of 2013. In the aforesaid case, vide order dated 30.01.2013, a Bench of this



Court though confirmed and upheld the order passed by the Trial Court but directed that an enquiry be made to ascertain the genuineness of the Court fees filed by O.P. No. 2.

An enquiry was directed to be conducted by order dated 06.01.2017 passed by the learned Court below. The enquiry report reveals that the Court fee which was affixed on the plaint was not issued from the Patna Treasury. However, it could not be specifically opined that the Court fee was forged. The Officer concerned was not in a position to give any conclusive opinion.

The Court below, vide order dated 26.07.2017, taking into account that from amongst the offences for which O.P. No. 2 has been charged, only Sections 258 and 420 of the Indian Penal Code were non-bailable, and further finding that the mischief of Section 258 will not be attracted as against O.P. No. 2 as he did not sell the forged Court fee, granted bail to O.P. No. 2.

The submission of O.P. No. 2 that more often than not the parties do not purchase Court fee; rather the same is purchased by the Lawyers or their respective Clerks was accepted by the Court below in granting bail to O.P. No. 2.

Considering the fact that no conclusive opinion about the stamp being forged, could be given by the Officer concerned and that there being no evidence that deliberately



a forged stamp was used by the O.P. No. 2, this Court does not wish to interfere with the order granting bail to him.

The petition is, accordingly, dismissed.

(Ashutosh Kumar, J)

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