

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22489 of 2016

Arising out of PS. Case No.-1767 Year-2014 Thana- KATIHAR COMPLAINT CASE
District- Katihar

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1. Sk. Kaimuddin
 2. Sk. Shahabuddin @ S.K. Shabuddin Both S/o Late Mohammad Ali
 3. Guljari Lal Sah
 4. Jibachh Lal Sah
 5. Uppach Lal Sah @ Upachh Lal Sah
 6. Rajendra Prasad Sah
 7. Sanjay Lal Sah, 3 to 7 are S/o Late Bijali Sah, All Resident of village- Kumhari, P.s.- Kadwa, District- Katihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shekh Jamshed Ali, S/o Late Kifatullah, resident of village- Kumhari, P.S.- Kadwa, District- Katihar presently residing at village- Dadna Rehika, P.s.- Kadwa, P.O.- Bharri, District- Katihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Jha, Advocate
For the Opposite Party/s : Mr. Abhay Kr.Roy(APP)

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 06-07-2018

Having heard learned counsel for the parties and on a perusal of the record it is clear that the complaint case has been registered only on the bare allegation that a sale-deed with regard to the land in question said to have been executed on 30.10.1994 is a forged and fabricated sale-deed. However, for declaring the sale-deed as null and void, the declaratory suit has already been filed and after about 20 years of execution of the sale-deed the present complaint case has been filed.



On a complete reading of the complaint case it is clear that it is a civil dispute between the parties with regard to ownership, title of the land in question and merely on the basis of some allegation that the sale-deed has been falsely executed without there being a cogent evidence or prima facie material to show that the execution of the sale-deed is a false and fabricated one, it was not appropriate for the court below to have taken cognizance in the matter and issue the proceedings for prosecution under Sections 420, 467 and 468 I.P.C. On a bare reading of the complaint it is seen that the only allegation made is that the sale-deed is a false and fabricated document but evidence in support thereof like report of the handwriting expert, signature being verified or thumb impression verified or testified by the Forensic Science Laboratories are not available on record and therefore, taking cognizance of the matter, only on the bare complaint, that also when a civil dispute between the parties with regard to the same sale-deed and the land is pending, was not proper. It is a case where a civil dispute between the parties is tried to be converted into a criminal case and as the cognizance of the offence has been taken without there being cogent evidence prima facie in nature on the bare reading of the complaint it is a fit case where applying the law



laid down by the Supreme Court in the case of [State of Haryana vs. Bhajan Lal](#) (1992 Supp.(1) SCC 335) the complaint can be interfered with. Accordingly, the application is allowed and the proceedings being Complaint Case No. CA 1767/14, pending in the court of A.C.J.M.-IV, Katihar stands quashed.

(Rajendra Menon, CJ)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	11.07.2018
Transmission Date	11.07.2018

