

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43201 of 2014

Arising Out of PS. Case No.-46 Year-2012 Thana- COMPLAINT CASE District- Supaul

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1. Ramrup Yadav S/o Mangal Yadav
 2. Laddu Lal Yadav S/o Mangal Yadav
 3. Binod Yadav @ Binod Kumar S/o Ramcharan Yadav
 4. Lakhichandra Yadav S/o Ramrup Yadav
 5. Ghyaneshwar Yadav @ Ghyaneshwar Pd. Yadav @ Gyaneshwar Kr. Yadav S/o Sri Ram Yadav
 6. Janardan Yadav S/o Subalal Yadav
 7. Ganga Ram Yadav @ Gangai Yadav S/o Sita Ram Yadav All Residents of Village - Kataiya, P.S. - Birpur, District- Supaul

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Surmani Devi W/o Bhagwat Yadav Resident of Village - Samda, P.S. - Ratanpura, Distt. - Supaul

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arpana Kumari
For the Opposite Party/s : Mr. NIRMALA KUMARI(APP)

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL JUDGMENT

Date : 16-02-2018

Heard learned counsel for the petitioners, learned APP for the State as well as learned counsel appearing on behalf of opposite party no.2.

2. The petitioners seek quashing of the cognizance order dated 28.11.2013, passed by learned Judicial Magistrate, 1st Class, Birpur in Complaint Case No.46C of 2012 thereby taking cognizance of the offence under Sections 420, 467, 468, 471 and 120B of the Indian Penal Code.



3. The facts giving rise to the case is that the petitioner nos.6 and 7 executed power of attorney with respect to the land belonging to the complainant in favour of petitioner no.1, Ramrup Yadav thereafter sold the land to petitioner nos.2 to 5, so they have created a forged sale deed and in the process the complainant was also cheated.

4. Learned counsel for the petitioners submits that no forged document was created by the accused persons. The petitioner nos.6 and 7 and husband of the complainant are agnates, so they all have their respective shares in the land in question. In support of the contention, attention was drawn to order passed in Mutation Appeal Case No.15/02-03, passed by D.C.L.R., Birpur in which the petitioner nos.6 and 7 in the present application are the petitioners and Ratni Devi, the present complainant, is opposite party and the earlier mutation done in favour of Ratni Devi was remanded back to Circle Officer with direction for doing mutation according to family partition or sale deed or as per judgment passed in the partition or title suit or on the basis of family partition between both sides. It is also submitted that Partition Suit No.46 of 2016 filed by petitioner nos.6 and 7 against the defendants including the complainant is still sub-judice, so it is not



a case of creating a forged document or of cheating the complainant rather nature of dispute is civil.

5. Having considered the rival submissions of both sides and on perusal of the records, the Court finds that the allegations do not constitute any ingredient of the offence of cheating and making a forged document in view of the definition of forged document as defined in Section 464 IPC. There is also lack of any ingredient of cheating in absence of any inducement to the complainant causing loss to the complainant and wrongful gain to the petitioners; both sides are agnates having partition dispute between them and the present sale deed was executed on the basis of the power of attorney given by petitioner nos.6 and 7, agnates of the complainant's husband, hence the cognizance order dated 28.11.2013, passed by learned Judicial Magistrate, 1st Class, Birpur in Complaint Case No.46C of 2012 as well as subsequent criminal proceeding are hereby set aside.

6. The quashing application stands allowed.

(Arun Kumar, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
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