

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.3008 of 2014

Arising Out of Case No. -1821 Year- 2012 Thana -COMPLAINT CASE District- ARRARIA

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1. Archana Devi, Wife of Sunil Singh, Resident of Village - Farhi (Kundilpur), P.S. Narpatganj, District - Araria
 2. Jai Ram Singh, Son of Late Kesho Singh (C.O.), Resident Of Village - Narpatganj, P.S. Narpatganj, District - Araria
 3. Pramod Singh, Son of Late Dhruv Narayan Singh (C.I.) Resident of Village - Majhua, P.S. Farbisganj, District - Araria
 4. Vikash Singh, Son of Late Nand Kishore Singh, Resident of Village - Shivpuri Ward No. 9, P.S. Narpatganj, District - Araria

.... Petitioner/s

Versus

1. The State of Bihar
2. Shiv Shankar Rishideo, Son of Akashay Lal Rishideo, Resident of Village - Farahi (Kundilpur), P.S. Narpatganj, District - Araria

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Uday Chand Prasad, Advocate.
Mr. Manoj Kumar, Advocate.
For the Opposite Party/s : Mr. Md. Mushtaque Alam, APP
Mr. Man Mohan Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 29-01-2018

Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for the O.P. No. 2.

2. Petitioners seek quashing of the cognizance order dated 06.05.2013 passed by the Judicial Magistrate, 1st Class, Araria in Complaint Case No. 1821-C/2012 thereby taking cognizance of offence under Sections 420, 467, 504 and 506/34 of the Indian Penal Code.

3. The brief fact giving rise to this case, according to the complainant-O.P. No. 2, is that the land in question was settled with him by the Bihar Bhudan Yagya Committee thereafter has been



coming in possession, however, on the alleged date of occurrence, the Circle Officer of the area turned up there for measurement of the said land and told O.P. No. 2 that the land was purchased by the State Government paying consideration money of Rs. 20,000/- to Archana Devi, the owner of the land. He objected it, upon which Circle Officer Jai Ram Singh abused by naming his caste, so all these officials along with Archana Devi entering into conspiracy going to settle the land to Mahadalits.

4. Learned counsel for the petitioners submits that Jai Ram Singh, the then Circle Officer of the concerned block, petitioner no. 2, went to the concerned plot for its measurement as per direction of the authorities, as the land was purchased from its owner, petitioner no. 1, for distribution to Maha Dalits for settling them for the homestead land. In the land records, name of the petitioner no. 1 is recorded so the dispute raised by the complainant/OP No. 2 is civil in nature and no criminal offence is made out. Petitioner no. 3 is Circle Inspector and petitioner no. 4 is Revenue Clerk, moreover no sanction has been obtained for prosecuting them as petitioners no. 2 to 4 were made accused while discharging their official function.

5. Learned counsel for the State concedes that no *prima facie* ingredient of the offence of cheating and creating forged document is made out.

6. Having considered rival submissions and on perusal of



record, the Court finds that the allegation, as levelled in the complaint, even taking into entirety, no *prima facie* offence of cheating or of making any forged document is made out. Petitioners no. 2 to 4 are Government officials and had gone to the land concerned for purpose of measuring it in discharge of their official duty, pursuant to purchase from its owner recorded in the land record (petitioner no. 1), for settlement to Maha Dalits. No cognizance has been taken under any offence of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act. It appears that complainant claims the land on the basis of settlement by Bihar Bhudan Yagya Committee. The dispute appears predominantly civil in nature, so the complainant may take recourse to civil litigation for deciding the title, but no criminal offence is made out.

7. Therefore, the entire criminal proceeding inclusive of cognizance order dated 06.05.2013 pending in the court of the Judicial Magistrate, 1st Class, Araria in Complaint Case No. 1821C of 2012 with respect to the petitioners, is hereby quashed.

8. The application stands allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.02.2018
Transmission Date	03.02.2018

