

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.42132 of 2014**

Arising Out of PS.Case No. -60 Year- 2010 Thana -PAROO District- MUZAFFARPUR

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1. Shatrughan Prasad Singh, S/o Late Sukh Deo Narayan Singh, resident of village- Bishunpur Saraiya, P.O. + P.S. Deoria, Anchal- Paroo, District- Muzaffarpur, presently residing in Mohalla- Kalambag Road, P.S.- Kazi Mohammadpur Road, District- Muzaffarpur.

.... .... Petitioner/s

Versus

1. The State of Bihar.  
2. Shri Rabindra Prasad Singh, S/o Late Brij Raj Singh, resident of Bishunpur Saraiya, P.O. + P.S. Deoria, Anchal Paroo, District Muzaffarpur.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Chandan, Advocate  
Ms. Anita Kumari, Advocate

For the Opposite Party/s : Mr. APP  
Mr. Bipin Bihari Singh, Advocate  
Mr. Shyama Kant Singh, Advocate

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**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**

**CAV JUDGMENT**

**Date: 21-08-2018**

Although instant case was heard along with Cr. Misc. No.31743 of 2011 and judgment was reserved, but judgment is being delivered separately.

2. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 16.09.2013 passed by the Sub-Divisional Judicial Magistrate, West, Muzaffarupr, in Paroo P.S. Case No.60 of 2010 by which the learned Magistrate has dismissed the petition filed by the Petitioner for his discharge under Section 239 Cr. P. C.



3. The case of the Complainant/Informant, in short, is that Petitioner and Opposite Party No.2 are co-sharers. The Petitioner has sold 71 decimals of land of Khata No.256, Plot No.211 to Accused Nos.4, 5 and 6 on 27.05.2000 with intention to grab the land of other co-sharers. It is further alleged that when the Complainant appeared before the Land Acquisition Officer, Muzaffarpur, pursuant to the notice for acquisition of land for the purpose of construction of Hajipur- Sugauli Railway Track, he came to know that purchaser of the aforesaid land, namely, Nagendra Das, has filed his claim for compensation in respect of the aforesaid land on the basis of the sale deed executed by the Petitioner. In support of his claim, Accused Nos.1 and 2, who had sold the aforesaid land, has filed an Affidavit before the Land Acquisition Officer stating that besides their father, other co-sharers of the aforesaid land have died issueless and, therefore, they have title over the property of the said *Khatiyan* and compensation should be paid to their purchaser- Nagendra Das.

4. It is further alleged in the complaint that father of the Complainant and all other co-sharers of the *Khatiyan* had heirs and one Jagdish Narain Singh is still in possession of his paternal property, who has filed the list of members of his family in opposition to the Affidavit filed by Accused Nos.1 and 2, which is



available in Land Acquisition Office, which clearly suggests that intention of the accused persons was to grab the property of other co-sharers.

5. The Complainant made demand from the Land Acquisition Officer about the relevant information under RTI. The Complainant got clear information that on the basis of objection of other co-sharers of the Complainant, the Land Acquisition Officer has called upon the deponents of the Affidavit for their evidence in support of their Affidavits, but they have not appeared in the office so far.

6. The police after investigation has submitted charge-sheet in the case and cognizance has been taken against the Petitioner and others. Petition filed under Section 239 Cr. P.C. was rejected by the impugned order.

7. Counsel for the Petitioner submits that it is a case of bonafide civil dispute between the Petitioner and the Opposite Party No.2. Opposite Party No.2 is nephew of the Petitioner, who is practicing lawyer in Muzaffarpur Civil Court. It is his efforts to harass the Petitioner by filing false cases against them although there is no dispute between the Petitioner and the Opposite Party No.2 regarding any immovable property because share of all co-sharers of the joint family property was properly defined by judgment dated



09.01.1984 passed in Partition Suit No.218 of 1973. Xerox copy of the judgment dated 09.01.1984 passed in Partition Suit No.218 of 1973 has been annexed as Annexure-2. On the basis of decision in Partition Suit No.218 of 1973, the lands, as mentioned in the written report, fall into the share allotted to him which the Petitioner has sold to Accused Nos.3 to 5. The aforesaid land was acquired by the State Government for construction of Hajipur - Sugauli Railway Track. The purchasers of the Petitioner's land approached Land Acquisition Officer for the purpose of payment of compensation, but when they were told about necessity of an Affidavit of the Petitioner for payment of compensation, the purchasers of the said land approached the Petitioner for the said Affidavit. Then the Petitioner, in good faith, put signature on the blank paper when approached by Accused Nos.3 to 5. Petitioner had no knowledge that it is Opposite Party No.2, who was doing *pairvi* of Accused Nos.3 to 5. The signature of the Petitioner on blank paper was given by Accused Nos.3 to 5 to Opposite Party No.2 and he used the same to draft an application in the name of Petitioner disputing claim of compensation of the Opposite Party No.2 on the ground that except the Petitioner all the co-sharers of the land are issueless.

8. When this fact came to knowledge of Accused No.3, he filed a complaint case in the Court of the Sub-Divisional



Judicial Magistrate, West, Muzaffarpur, vide Complaint Case No.1669 of 2010 against the Opposite Party No.2. Xerox copy of the Complaint Case No.1669 of 2010 is annexed as Annexure-3. It has further been submitted that although dispute regarding partition of the family property has been set at rest by judgment and decree dated 09.01.1984 passed in Partition Suit No.218 of 1973, yet on instigation of the Opposite Party No.2, a co-sharer has filed another Partition Suit No.392 of 2008, which is pending in the Court. Xerox copy of the plaint of Partition Suit No.392 of 2008 is annexed as Annexure-4.

9. This Court after looking into the allegation in the Complaint Petition and also the impugned order finds that both the parties are co-sharers. There is civil dispute pending between them. Earlier Partition Suit No.218 of 1973 was filed by the grand-father of Opposite Party No.2 in the Court of Sub-Judge, Muzaffarpur, which was decided by judgment and decree dated 09.01.1984 and thereafter all co-sharers came in possession of their respective share of the property. The Petitioner has thereafter sold the land of his share to Accused Nos.3 to 5 and when the aforesaid land was acquired by the State Government for construction of Hajipur - Sugauli Railway Track, the purchasers of land approached Land Acquisition Officer for the purpose of payment of compensation.



**10.** Therefore, this Court finds that there is bonafide land dispute between the parties and no any criminal offence is made out against the Petitioner for the allegation as made in the written report.

**11.** In view of such, impugned order dated 16.09.2013 passed by the Sub-Divisional Judicial Magistrate, West, Muzaffarupr, in Paroo P.S. Case No.60 of 2010, along with entire criminal proceeding with respect to the Petitioner is hereby quashed.

**12.** This application is, accordingly, **allowed.**

**(Sanjay Priya, J)**

*J.Alam/-*

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