

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.33740 of 2015

Arising Out of PS.Case No. -622 Year- 2009 Thana -SARAN COMPLAINT CASE District-
SARAN

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1. Krishna Shankar Prasad, son of late Mohan Prasad, a resident of Hussepur, P.S.-
Amnour, District- Saran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Lalan Prasad Singh, son of Kishun Prasad Singh, a resident of Rasulpur, P.S.-
Amnour, District- Chapra, Saran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Harish Kumar, Advocate
For the Opposite Party No.1: Dr. Rabindra Kumar, APP
For the Opposite Party No.2: Mr. Krishna Kant Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

CAV JUDGMENT

Date: 24-07-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 04.05.2015 passed by the Judicial Magistrate, 1st class, Chapra, Saran, in Complaint Case No.622 of 2009 (Tr. No.1700 of 2015) by which the learned Magistrate has rejected the discharge petition filed by the Petitioner under Section 245 Cr.P.C.

2. The prosecution case, as per Complaint Petition, is that the Complainant went to see his land. He saw Narendra Kumar getting his land ploughed. Narendra Kumar said that he has purchased 3 Kathas 12 Dhurs of land from the wife of Madan Singh.



The Complainant came back and enquired from the Registry Office, Marhowrah, where he learnt that on 27.01.2009, Bharat Kumari Devi, had executed a forged sale deed for 3 Kathas 12 Dhrus land. Accused, Dinesh Kumar Singh is witness over the said sale deed. Accused Abhay Prasad Singh is identifier and Krishna Shankar Prasad (Petitioner) is a *Katib* (Deed writer) of the Sale Deed.

3. Counsel for the Petitioner submits that dispute is totally civil dispute between the parties. The Petitioner has no concern with the property in dispute. He is only *Katib* (Deed writer) of the said deed, which also finds support from the statement made by the Complainant in para 5 of the Complaint Petition. There is no allegation of any forgery against this Petitioner except that he was *Katib* (Deed Writer) of the said deed. The witnesses in their evidence before Charge have stated that this Petitioner was *Katib* (Deed Writer) and he has written the sale deed.

4. Counsel for the Complainant-Opposite Party No.2 has submitted that on the basis of evidence before Charge the impugned order has been passed. The Court below has found sufficient material to frame charge against the Petitioner for the offence under Section(s) 420, 471, 468 Indian Penal Code.

5. This Court after hearing counsel for the parties and looking into the allegation in the Complaint Petition especially



statement made in para 5 of the Complaint Petition finds that the Petitioner was *Katib* (Deed writer). There is no specific allegation against the Petitioner of committing fraud with Complainant. There is allegation in the Complaint Petition that one Bharat Kumari Devi has executed forged sale deed on 27.01.2009 to Narendra Kumar of the land belonging to the Complainant. Petitioner has no concern with the land dispute between the Complainant and Bharat Kumari Devi. Both are own *Pattidar* and there is property dispute between them. The Petitioner is not the beneficiary of the sale deed. He has simply written the sale deed as *Katib* (Deed writer) on instruction of Bharat Kumari Devi on the facts disclosed by her to him.

6. This Court after carefully looking into the allegation finds that necessary ingredients of Sections 420, 471, 468 Indian Penal Code are totally missing with respect to this Petitioner. Therefore, the impugned order passed by the learned Court below with regard to Petitioner is not in accordance with law.

7. There is no sufficient material to frame charge against this Petitioner for the offence as alleged. There is no ingredient of sections alleged against the Petitioner.

8. In view of such, impugned order dated 04.05.2015 passed by the Judicial Magistrate, 1st class, Chapra, Saran, in Complaint Case No.622 of 2009 (Tr. No.1700 of 2015)



along with entire criminal proceeding with regard to the Petitioner is hereby quashed.

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

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	AFR
CAV DATE	09-05-2018
Uploading Date	25-07-2018
Transmission Date	25-07-2018

