

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 21128 of 2012

Arising Out of PS. Case No.-4 Year-2012 Thana- PHULWARI District- Patna

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1. Narendra Prasad Singh Son of Deo Prasad Singh, Resident of Village Karorichak, Police Station Phulwarisharif, District Patna.
 2. Radhvendra Prasad Singh Son of Deo Prasad Singh, Resident of Village Karorichak, Police Station Phulwarisharif, District Patna.
 3. Amritendra Prasad Singh Son of Deo Prasad Singh, Resident of Village Karorichak, Police Station Phulwarisharif, District Patna.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Singh, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 14-12-2018

Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners have moved the Court under Section
482 of the Code of Criminal Procedure, 1973 (hereinafter referred
to as the 'Code') for the following reliefs:

*“That the instant application is being
filed for quashing an First Information Report
registered under Phulwarisharif Police Station
bearing P.S. Case No. 04/2012 G.R. no. 61/2012
dated 2.1.2012 under Sections 420, 120B/34 of
the Indian Penal Code.”*



3. The petitioners are sons of the informant and it is alleged that the land which was bought in her name by her husband and was also duly mutated in her favour, was thereafter got mutated by the petitioners and the two other sons showing her to be dead.

4. Learned counsel for the petitioners submitted that on the basis of the affidavit of the father, the land was mutated in their name. It was further submitted that for the same cause, Complaint Case No. 3053(C) of 2009 was also filed and due to non prosecution, it was finally disposed off by order dated 29.08.2014. Learned counsel submitted that the informant has also died on 03.05.2013.

5. Learned A.P.P. submitted that the informant is the mother and her genuine grievance and pain is reflected in the complaint filed before the police leading to institution of the criminal case.

6. Though, counter affidavit has been filed on behalf of the informant but nobody appeared on her behalf, when the case was taken up and heard.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the present is an eye opener with regard to how the law



is manipulated and how degraded the society is. An old mother is making a complaint before the authorities that her sons have got a land which stood in her name mutated in their favour showing her to be dead. On a direct query to learned counsel for the petitioners, it is accepted that the land was in the name of the informant i.e., their mother but the same was mutated on the affidavit of the father. On a further query of the Court as to what right the father had on the land in the name of his wife i.e., petitioners' mother and informant, learned counsel had no reply to the same.

8. Since the informant is dead, normally, the accused would automatically have got the benefit as there would be no witness in the trial. However, in the present case, since the case has been filed under Section 482 of the Code which gives the High Court inherent power to pass orders to secure the ends of justice, the Court finds that the fraud committed by the petitioners and his two brothers is very apparent. They got a land in the name of their mother mutated without her consent or without her giving any such undertaking or information or no objection to the authorities and the same admittedly having been done on the affidavit of the father who had absolutely no right over the land in question, the Court finds that an old lady, that too the mother of



the accused, being subjected to such treatment by her own sons, cannot be condoned or brushed under the carpet. As, the admitted position has come to the notice of the Court, the Court directs the Senior Superintendent of Police, Patna to initiate *suo motu* proceeding with regard to how the land belonging to the informant was mutated in favour of the five sons. The investigation shall take into its ambit the role of the authorities also. The same be done forthwith. Thereafter, the proceedings shall be taken to their logical conclusion, in accordance with law.

9. The application stands disposed off without any interference in the order impugned.

10. Mr. Jharkhandi Upadhyay, learned A.P.P. is directed to communicate the order to the Senior Superintendent of Police, Patna for compliance.

(Ahsanuddin Amanullah, J.)

P. Kumar

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