

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25464 of 2015

Arising out of Complaint Case No.-4117 Year-2012 Thana- SARAN COMPLAINT CASE
District- Saran

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1. Surendra Prasad Singh, S/o Late Baijnath Singh
 2. Paras Nath Singh, S/o Late Baijnath Singh
 3. Ram Nath Singh, S/o Late Deo Nath Singh
 4. Virendra Singh @ Virendra Kr. Singh S/o Late Deo Nath Singh
All R/o- Village- Dumri, P.O.- Dumri Balua, P.S.- Doriganj,
District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Bijayeshwar Singh @ Bijesh Singh, S/o Late Shiv Narayan Singh R/o-
Village- Dumri, P.O.- Dumri Balua, P.S.- Doriganj, District- Saran at Chapra.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar, Advocate

For the Opposite Party/s : Mr. Jeetendra Narayan, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 20-07-2018

Seeking quashing of Complaint Case No. 4117 of 2012, Trial No. 3971 of 2014 registered by the Judicial Magistrate, Saran vide order dated 19.02.2014 for offences under Sections 420, 468, 471 and 34 of the Penal Code, this application has been filed under Section 482 Cr.P.C.



The facts in brief and the nature of grievance made out by the complainant is to the effect that with *mala fide* intention the documents with regard to joint ownership of the property has been created by the present applicants who are Respondent Nos. 5 to 8 in the complaint in connivance with the Revenue and other officers who are respondent Nos. 1 to 4 in the complaint and it is alleged in the complaint that by preparation of such false and fabricated documents the applicants herein have received a compensation of Rs. 8,04,960/- from the officers of the National Highways Authority in the matter of acquisition of land as was notified in the daily newspaper.

Inter alia contending that false and fabricated documents of co-ownership/ownership has been created by Respondent Nos. 5 to 8 in connivance with and with the help of Government official Respondent Nos. 1 to 4. On filing of the complaint, the complainant examined himself, produced the document of his ownership and after examining two more witnesses, namely, Pashupati Singh and Chandra Bhushan Singh the complaint has been registered. However, the complaint has been registered and summons issued only to the present applicants who are Respondent Nos. 5 to 8 whereas; with regard



to the allegation made against the Government officials, namely, Respondent Nos. 1 to 4 who are said to have been instrumental in facilitating the present applicants to create the fabricated document, the matter has been referred to the Collector for inquiry and submission of the report.

The allegation as is made out from the complaint is that the present applicants who are Respondent Nos. 5 to 8 have in connivance with and in collaboration with the Government officials Respondent Nos. 1 to 4 have been instrumental in creating the false and fabricated document and thereafter obtaining compensation.

If that be the complaint, then either prima facie all the eight accused persons are responsible for the same or they are not responsible. The learned Magistrate does not prima facie take cognizance of the complaint as far as the accused-Respondent Nos. 1 to 4 in the body of the complaint are concerned. With regard to them, the matter is referred to the Collector for an inquiry and submission of the report. At the same time, for the same allegation of creating the fabricated document, action is taken against the present applicants who are Respondent Nos. 5 to 8 and when the allegation is read in its totality, this is an act committed by all the eight accused persons



together and if inquiry is to be conducted with regard to action of Respondent Nos. 1 to 4 in the complaint, then the same benefit has to be granted to the present applicants also and the complaint would be registered and cognizance taken only after the preliminary inquiry report is received from the office of the Collector.

In doing so and registering the complaint on prima facie case being established against the present applicants, in my considered view, a grave error and illegality has been committed by the Magistrate concerned and on this ground alone the impugned order issuing summons to the present applicants and registering the complaint against them should be and is accordingly quashed. This application is allowed. The impugned order dated 19.02.2014 passed in Complaint Case No. 4117 of 2012 (Tr. No. 3971 of 2014) and issuance of summons and registration of complaint against the present four applicants who are Respondent Nos. 5, 6, 7 and 8 in the complaint are quashed. The Magistrate is directed to call for report from the Collector or the police authorities and thereafter proceed in accordance with law after receiving the Inquiry Report with regard to the complaint in question.

With the aforesaid, the application stands allowed



and disposed of.

(Rajendra Menon, CJ)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	31.07.2018
Transmission Date	31.07.2018

