

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.4598 of 2016

Arising Out of PS.Case No. -1789 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Kanshi Rai @ Kanshilal Rai son of Late Laxmi Yadav resident of Village
Nayatola Saristabad P.S.- Gardanibagh District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Shri Dharamvir Singh son of Late Naresh Prasad Singh resident of Village Tungi
P.S.- Deep Nagar, District- Nalanda.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Usha Kumari Singh

For the Opposite Party/s : Mr. Narsing Tanti (APP)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 18-09-2018

In spite of issuance of notice to O.P. No. 2, nobody
appeared on his behalf.

Supplementary affidavit has been filed in this case
stating therein that charge has not been framed in this case.

Heard the learned counsel for the petitioner as well as
the State.

The petitioner seeks quashing the order dated
06.02.2013 passed by the learned Judicial Magistrate 1st Class, Patna
in Complaint Case No. 1789(C)/2012, whereby the court below has
found *prima facie* case for offences under Sections 420, 468, 471, 323
and 379 of the Indian Penal Code.



Learned counsel for the petitioner has submitted that it is a matter of purely civil dispute and only to put pressure, the instant case has been filed.

In the complaint petition, it is alleged that complainant is holder of power of attorney of land belonging to Sri Om Prakash Gupta and Vishal Gupta vide General Power of Attorney dated 09.02.2011 for looking after those lands and also looking after court cases.

Learned counsel for the petitioner has submitted that petitioner is owner of aforesaid land and has already executed sale deed in the year 2009 to different persons but the complainant after getting power of attorney has filed the instant case in the year 2012. It is further submitted that the complainant has mentioned in para 7 of complaint petition that court of DCLR, Patna has cancelled the Jamabandi in the name of other persons except Principals of complainant and the same has been confirmed by court of Collector, Patna in Revision No. 19/2009-10 dated 08.05.2012.

Learned counsel for the petitioner has submitted that statement made in para 7 of the complaint petition has been decided by Bihar Land Tribunal in B.L.T. Case No. 468 of 2013 vide order dated 23.06.2015 filed by petitioner against order dated 08.05.2012 passed in Revision Case No. 19/2009-10, whereby order dated



08.05.2012 passed by Addl. Collector, Patna in Revision Case No. 19/2009-10 has been set aside. Copy of order of B.L.T. has been annexed as Annexure-2.

Learned counsel for the petitioner has submitted that Hon'ble Supreme Court in case of *Md. Ibrahim Vs. State of Bihar* reported in *(2009) 8 SCC 751* has held that *there is growing tendency of complainants attempting to give the cloak of a criminal offence to matters which are essentially and purely civil in nature, obviously either to apply pressure on the accused, or out of enmity towards the accused, or to subject the accused to harassment. Criminal courts should ensure that proceedings before it are not used for settling scores or to pressurize parties to settle civil disputes.*

In such circumstances, this Court finds that it is a matter of purely civil dispute and the instant criminal miscellaneous has been filed only to settle the issue.

Accordingly, the impugned order dated 06.02.2013 passed by the learned Judicial Magistrate 1st Class, Patna along with entire criminal proceeding against the petitioner is hereby quashed.

This Criminal Miscellaneous is accordingly allowed.

(Sanjay Priya, J.)

Rakhi

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	03.10.2018
Transmission Date	03.10.2018

