

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51886 of 2017

Arising Out of PS.Case No. -737 Year- 2016 Thana -COMPLAINT CASE District- ARRARIA

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1. Naushad, S/o Late Eqbal,
 2. Md. Sajjad Hussain @ Sajjad S/o Late Eqbal , Both are R/o Village- Karaila, P.S.- Bounsi, District- Araria.

.... Petitioner/s

i. Versus

1. The State of Bihar.
2. Bibi Husna Ara @ Husna D/o Late Eqbal, W/o Gulam Samdani, R/o Village- Bhag Mohabbat, P.S.- Araria, R.S. District- previous R/o Village- Karaila, P.S.- Bounsi, District- Araria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Rana

For the Opposite Party/s : Mr. Sri Asharaf Ansari

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

07/ 16-03-2018

Heard learned counsels for the petitioners, the State

and complainant-opposite party no.2.

The petitioners are apprehending their arrest in a complaint case, wherein processes have been directed to be issued after cognizance being taken for the offence punishable under Section 406 of the Indian Penal Code.

The prosecution case as per the complaint petition filed on 19.04.2016 is to the effect that that on 18.01.2008 the lands appertaining to Khata No. 6, Plot No. 781 area 7 ½ decimals and Plot No. 783 area 9 decimals total 16 ½ decimals were transferred by petitioner no. 1 in favour of his sons Sakir and Sadir. On 27.11.2012 the accused persons took the



complainant and her two sisters to the registry office and got transferred 2.79 acres of land in favour of two sons of petitioner no. 1 namely, Nishant Alam and Nakib Ahmad. It is further alleged that on 31.12.2012 petitioner no. 1 realized Rs.1,44,000/- from the complainant and transferred a land which was already transferred in the name of sons of petitioner no. 1 when on 07.11.2015 the complainant transferred her share in the name of wife and sons of witness Abbas when they went to get the land mutated in their favour they came to know that petitioner no. 1 has already transferred the land in favour of his sons.

It is submitted by learned counsel for the petitioners that the complainant is the own sister of the petitioners and in the background of share dispute the accusation has been levelled. The present complaint case has been filed to put pressure upon the petitioners to withdraw Title Suit No. 388/656 of 2015 filed by petitioner no. 2 wherein the complainant and witnesses of the present case are defendants. A supplementary affidavit has been filed that certain lands have been transferred by the sons of petitioner no. 1 in favour of Md. Sakir Alam @ Md. Sakir, nephew of opposite party no. 2 and son of Md. Abbas on 08.01.2018 from whom the complainant took money and transferred her share land. The said transfer was made in



pursuance to an agreement arrived at between the parties. Moreover, petitioner no. 2 is suffering from cancer. A statement has been made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent.

Learned counsel for the complainant submits that the accusation suggests that the petitioners have committed forgery and breach of trust. The land in question has not been transferred in favour of the complainant rather the same has been transferred in faovur of the wife and sons of Md. Abbas.

On the joint prayer of the parties vide order dated 10.11.2017 the matter was referred to the Mediation and Conciliation Centre. The report of the Mediator dated 12.12.2017 at Flag 'M' reflects that the issue could not resolved through mediation since both the sides failed to cooperate.

Considering the rival submissions of the parties keeping in view the fact that in the background of share dispute between the petitioners and their sister, the complainant the accusation has been levelled and the title suit was filed prior to filing of the complaint, let the above named petitioners be released on anticipatory bail in the event of their arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of



Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Araria in connection with Complaint Case No. 737 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

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(Dinesh Kumar Singh, J)

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