

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32726 of 2018

Arising Out of PS. Case No.-226 Year-2017 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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Pradeep Kumar @ Pradeep Prasad son of Late Yoganand Prasad @ Yogendra Prasad resident of village - Siswania, P.S. Ramgharwa, District - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Jayram Raut son of Late Jhagru Raut resident of village - Siswania, P.S. Ramgharwa, District - East Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Shahnawaz Ali
For the Opposite Party/s : Mr. Md. Sufiyan

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 25-09-2018 Heard learned counsel representing the petitioner and

learned counsel for the State.

The petitioner is seeking quashing of the order dated 07.03.2018 passed by learned S.D.J.M., Raxual, East Champaran in Criminal Complaint Case (Rax.) No. C-226 of 2017 T.R. No. 2473 of 2018.

By the impugned order learned S.D.J.M. has been pleased to take cognizance of the offence under Sections 420 and 468 of the Indian Penal Code and decided to issue summons against the petitioner.

Learned counsel representing the petitioner submits that so far as the allegations against the petitioner are concerned,



it is alleged that these petitioners have indulged in transfer of the land which were gifted in the name of His Excellency Governor of Bihar for purpose of the school. The complainant is the president of Siksha Samiti of Govt. Girl Primary School, Siswania, East Champaran and it is alleged by him that all the accused persons have transferred the land and created illegal sale deeds in collusion with the headmistress of the school.

In course of submission while assailing the impugned order, learned counsel for the petitioner has given much emphasis on a copy of letter bearing no. 89 dated 05.03.2016 issued by the Deputy Collector, Land Reforms, Raxaul, East Champaran addressed to the Additional Collector, East Champaran, Motihari in which he has given his view on certain points raised in the letter bearing no. 157 dated 18.02.2016 issued by the Additional Collector, East Champaran, Motihari.

Learned counsel submits that a perusal of Annexure-3 would show that the whole allegations that this petitioner had sold the land belonging to the school would belie as the D.C.L.R. has held that in all the sale deeds which have been executed the land of the school have been shown in the eastern boundary.

On the other hand, learned counsel for the State has



opposed the submission of the learned counsel representing the petitioner. Learned counsel submits that the stand taken on behalf of the petitioner is in the nature of defence cannot be examined at this stage by this Court while looking into the correctness of the order taking cognizance.

Having heard learned counsel or the parties and on perusal of the records, this Court finds that even though much emphasis have been given by learned counsel representing the petitioner on Annexure-3, to this Court it appears that Annexure-3 with the present petition cannot be taken as a clinching material to hold and declare that the order taking cognizance is bad in law. It appears that Annexure-3 has been written in response to the office letter no. 157 dated 18.02.2016 issued by the Additional Collector. This letter is not on the record, however, learned counsel representing the petitioner wants that this Court should come to a conclusion by holding that Annexure-3 is a document which negate the allegations levelled by the complainant. This Court finds that even the context in which the letter as contained in Annexure-3 has been written is not apparent and available on the record. The defence which is sought to be raised at this stage cannot be looked into by this Court.



This application has otherwise no merit. It is dismissed accordingly.

The petitioner may raise all such issue which may be available to him in the court below at the time of framing of charge.

(Rajeev Ranjan Prasad, J)

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