

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51703 of 2014

Arising Out of PS. Case No.-208 Year-2014 Thana- NALANDA COMPLAINT CASE
District- Nalanda

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Nagendra Prasad Singh son of late Ramchandra Prasad Singh Resident of village- Mahuri, P.S. and District Nalanda at present residing at village Bangali Pada, Rajgir, Police Station Rajgir, District Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manju Kumari @ Manju Sinha wife of Late Ravindra Prasad Singh Resident of village- Mahuri, P.S.- Nalanda, District Nalanda

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeet Kumar Tiwari
For the Opposite Party/s : Mr. M.K.Nirala(App)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3 23-07-2018 Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for opposite party no.2.

This petition has been filed under Section 482 Cr. P.C. for quashing the order dated 28.10.2014 passed by learned Sub Divisional Judicial Magistrate in complaint case no. 208 (c) of 2014 by which learned Magistrate has taken cognizance for the offence under Sections 466, 467 and 471 of the Indian Penal Code .

Learned counsel for the petitioner has submitted that it is out and out a civil dispute. Petitioner is own brother of the husband of the complainant. He has sold the land of his own



share. The allegation in the complaint petition does not make out a case for criminal offence. It is totally a civil dispute.

In the complaint petition, it is alleged that partition has taken place between the brothers. Seven decimals of land was allotted to the share of each brothers. The complainant has alleged that this petitioner, who is 'Bhaisur' of the complainant, has sold the land of the share of the husband of the complainant. It has further been submitted that Title Suit is also pending between the parties. It is further submitted that it is mentioned in the complaint petition itself that Title Suit vide Title Suit no. 89 of 2013 is pending in the Court of Sub-Judge –VII, with respect to the aforesaid land.

Learned counsel for the opposite party no.2 has appeared and submitted that Title suit no. 89 of 2013 has already been disposed off by judgment dated 28.04.2015 and the Suit has been decreed *ex parte* in favour of opposite party no.2. It is further submitted that after passing of the final decree in Title Suit he has sold only 7 decimals of the land of his share.

In such circumstances, this Court does not find any *mens rea* of criminal offence in this case. It is a matter of civil dispute. Therefore, continuance of criminal prosecution against the petitioner is mere abuse of the process of law. Accordingly,



the impugned order 28.10.2014 passed by SDJM, Bihar Sharif
in complaint case no. 208(c) of 2014 along with entire criminal
prosecution against the petitioner is hereby quashed.

This Cr. Misc. application is allowed.

(Sanjay Priya, J)

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