

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.339 of 2015

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Jayanta Bhawal, Son of Kartik Chandra Bhawal, resident of Kaptan
Para, Khuskibagh, P.S.-Sadar, District-Purnea.

.... Petitioner/s

Versus

1. The State of Bihar
2. Vikki Bhawal, son of Sri Kanu Bhawal, resident of Kaptan Para,
Khuskibagh, P.S.-Sadar, District-Purnea.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Akhileshwar Pd. Singh, Sr. Adv.
Mr. Raj Kumar, Adv.
Mr. Rajnish Kumar, Adv.

For the O.P. No. 2 : Mr. Ajit Ranjan Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT & ORDER

Date: 19-01-2018

Heard Mr. Akhileshwar Prasad Singh, learned
Senior Advocate for the petitioner and Mr. Ajit Ranjan Kumar,
learned Advocate for opposite party No. 2.

2. By order dated 07.03.2014, the learned Judicial
Magistrate-Ist Class, Purnea, took cognizance against opposite
party No. 2 under Sections 467, 468 and 471 of the Indian
Penal Code (*hereinafter referred to as the 'I.P.C.'*) in
Complaint Case No. 1172 of 2013, preferred by the petitioner.



3. As against the aforesaid order of cognizance, the opposite party No. 2 preferred a revision before the learned Adhoc Additional Sessions Judge-VIII, Purnea, *vide* Cr. Revision No. 121 of 2014.

4. The learned Revisional Court by order dated 31.01.2015, passed in Cr. Revision No. 121 of 2014, set-aside the order of the learned Magistrate dated 07.03.2014, whereby the cognizance was taken under Sections under Sections 467, 468 and 471 of the I.P.C. against the opposite party No. 2 and allowed the revision petition.

5. The petitioner/complainant has challenged the aforesaid revisional order dated 31.01.2015.

6. From the records, it appears that one Chaitanaya Bhawal, who was the common ancestor of the petitioner as well as opposite party No. 2, owned and possessed several tracts of land, including the land falling in R.S. Khata No. 1, Plot Nos. 25, 27, 28, 29 and 30, total measuring about 4.35 acres. Aforesaid Chaitanaya Bhawal had five sons, namely, Noni Gopal, Dinesh Chand, Kartik Chand, Bishwanath and Makhan. The petitioner is the son of Kartik Chand, whereas the opposite party No. 2 is the grandson of Noni Gopal. It further appears that after the death of Chaitanaya Bhawal, land was divided amongst his five sons, referred to above, by a *Panchnama Batwara* dated 09.08.2009



and according to the aforesaid document, the land falling in Plot Nos. 25, 27, 28, 29 and 30, total measuring about 87 decimals, were allotted in the share of Noni Gopal, the grandfather of opposite party No. 2. A separate *Jamabandi* in favour of all the five sons of late Chaitanaya Bhawal were opened and with respect to the concerned plot, a different *Jamabandi* number was allotted in favour of the grandfather of opposite party No. 2.

7. The complainant/petitioner claims that the family property was partitioned not by the *Batwara Panchnama* of 2009, but of 25.06.2010. By the aforesaid deed of partition dated 25.06.2010, on which the petitioner has relied, Plot No. 27 fell in his share, but the same was wrongly and maliciously sold by opposite party No. 2, thereby making him liable for being prosecuted for the offences punishable under Sections 467, 468 and 471 of the I.P.C.

8. The case of the complainant further is that the *Batwara Panchnama* of 2009 is a forged document and bringing the same on record is nothing, but forgery with the records for the sole purpose of appropriating the property, which has fallen in the share of complainant/petitioner.

9. Learned Counsel for the opposite party No. 2, however, has submitted that the learned Revisional Court rightly held that the *Batwara Panchnama* of 2010 does not



bear the signature of one of the sons of late Chaitanaya Bhawal, namely, the grandfather of the opposite party No. 2, whereas the document, which has been furnished by the opposite party No. 2, contains the signature of all the sons of late Chaitanaya Bhawal and *Jamabandi* was created according to the aforesaid document.

10. It further appears from the record that a title suit, bearing Title Suit No. 64 of 2012, has also been filed by the opposite party No. 2, which is pending adjudication. In the aforesaid title suit, the complainant/petitioner has also entered his appearance.

11. The Revisional Court after going through both the partition deeds came to the conclusion that it is a civil dispute and if at all there is any dispute with respect to the concerned property, which is alleged to have been sold without authority, the same could be adjudicated by a competent Civil Court. The Revisional Court was rightly of the view that for such dispute over the apportionment of the land, no criminal case can at all be filed.

12. As far as the allegations under Sections 467, 468 and 471 of the I.P.C are concerned, one unregistered document is pitted against the other and the document offered by opposite party No. 2 is of an earlier date, which has the signature of all the sons of late Chaitanaya Bhawal. On the



contrary, the *Batwara Panchnama*, brought on record by the complainant/petitioner, does not bear the signature of the grandfather of the petitioner.

13. After hearing the learned Counsel for the parties, this Court is of the view that no offence under anyone of the sections of the I.P.C., as alleged by the petitioner, can at all be said to have been made out and the Revisional Court is justified in setting aside the order taking cognizance. While saying so, this Court has also taken note of the fact that the learned Magistrate while taking cognizance against opposite party No. 2, did not at all advert to any of facts stated above and merely took cognizance in a mechanical manner.

14. For such facts, no interference is required with the order impugned.

15. The petition is dismissed.

(Ashutosh Kumar, J)

Praveen-II/-

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