

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45761 of 2015

Arising Out of PS. Case No.-712 Year-2014 Thana- COMPLAINT CASE District- Jamui

1. Jitendra Kumar Bhagat, Son of Sri Raj Kishore Bhagat
2. Rajeev Kumar Bhagat, S/o Kedar Bhagat
3. Manish Kumar Bhagat @ Manish Kumar, S/o Kedar Bhagat
4. Subodh Kumar Bhagat, S/o Kedar Bhagat
5. Binod Bhagat, S/o Late Govind Bhagat
6. Most Malti Devi, W/o Late Govind Bhagat

All Residents of Village- Mahadeo Simeria, P.S. Sikandra,
District- Jamui.

7. Umesh Kumar, S/o Mahabir Ram, Resident of Village-
Krishnapatti, P.S. & District Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Most. Ramwati Devi, W/o Onkar Bhagat @ Karu Bhagat, Resident of
Mahadeo Simeria, P.S. Sikandra, District Jamui.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : None

For the Opposite Party/s : Mr. Suresh Pd.Singh (APP)

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 30-04-2018

None appears for the applicants. Heard learned counsel
for the opposite parties.

This application under Section 482 of the Code of
Criminal Procedure has been filed by the applicants challenging an



order passed by the Sessions Judge, Jamui in Criminal Revision No.18 of 2015 whereby an order passed by the Judicial Magistrate 1st Class, Jamui, dismissing the complaint filed by the opposite party Most. Rambati Devi in complaint Case No.712 (C) of 2014 has been quashed and the complaint directed to be registered.

Opposite party No.2 Most. Ramwati Devi filed the complaint in question and the Judicial Magistrate 1st Class, Jamui by a detailed order passed on 03.02.2015 after causing an enquiry with regard to the issue in question dismissed the complaint by recording his findings which read as under:-

“This Court has gone through the complaint petition, complainant’s statement, enquiry evidence and the documents and found that the core issue of this case is land dispute, a dispute regarding the ownership of the aforementioned land. The complainant has failed to produce anything which could show that the land in question belongs to her, the so called *panchayat* order shows that Karu Bhagat and other villagers were given only a passage through that land. The fact that the father-in-law and mother-in-law of the complainant were buried in the said land also shows that there is land dispute in respect of the said land, because why a Hindu will be buried contrary to Hindu practice. Allegations made by the complainant in her statement are of civil nature and it is beyond the



jurisdiction of this court to decide on the matter of civil nature. The complainant tried to make the matter a criminal matter by saying that the sons of Jitendra, Dharmendra and Kedar abused and assaulted however not a single enquiry witness supported her on this point and there is nothing at all on the case record which shows that there is any basis for initiating a criminal case against the persons named in the complaint petition. So in the aforesaid circumstances this Court is of the opinion that there is no *prima facie* case made out against the persons named in the complaint petition and so does not find any basis to proceed against all or any of them. Hence, the complaint petition is hereby dismissed.

Office Clerk is directed to deposit the case record into the record room as per rules.”

(Emphasis supplied)

Against the aforesaid order of dismissal, Ramwati Devi filed a criminal revision petition before the learned Sessions Judge and the learned Sessions Judge has allowed the revision petition and directed for registration of a complaint under Section 420 of the Indian Penal Code against the applicants. A perusal of the order passed by the learned Sessions Judge goes to show that the learned Sessions Judge has merely interfered into the order after re-appreciating the documents which came on record, particularly the



documents with regard to the execution of the sale deed and the documents pertaining to the dispute considered by the *Panchayat*. However, while doing so, the learned Sessions Judge has not indicated as to how the findings recorded by the Judicial Magistrate are perverse, how the appreciation of evidence is unsustainable in law, in fact the Sessions Court has exercised its revisional jurisdiction without recording any reason which could be said to be cogent in nature warranting interference into a reasonable order passed by the learned Magistrate dismissing the complaint.

In my considered view, jurisdiction exercised by the learned Sessions Court exercising its limited power of revision is akin to a power exercised by the appellate authority and the findings recorded by the learned Sessions Judge which reads as under:-

“Heard both sides, and also perused the L.C.R. The complainant on S.A. has fully supported the contents of complaint petition. To court question, she has stated that Malti Devi is stranger to the family of complainant. Similarly, inquiry witness no. 1 Shyam Sunder Bhagat, inquiry witness no.2 Dinesh Tamoli, inquiry witness no.3 Satyabhama Devi have also corroborated the statement of complainant. They have also stated that Malti Devi is stranger to the



family of complainant, and complainant got land from panchayat in the year 2009. The complainant has also filed paper of panchayat to show that husband of complainant after panchayat got 10 decimals of land in plot no.2128 after measurement. So, from perusal of evidence of complainant and witnesses, I find that there are *prima facie* sufficient material U/s. 420 I.P.C against the accused persons. Since execution of sale deed is admitted, so, case U/s. 467, 468, and 471 I.P.C. are not made out. Moreover, witnesses have not supported the occurrence of assault, so, I find that there is irregularity in the impugned order dated 3.2.2015 of learned court below, and, accordingly, the impugned order dated 3.2.2015 is hereby set aside, and learned court below is directed to inquire into the matter and pass afresh order in accordance with law.

In this way, this criminal revision is allowed.”

in my considered view, does not show application of mind or sufficient reason for interfering with the reasonable order passed by the learned Judicial Magistrate 1st Class, Jamui.

Keeping in view the aforesaid, this application is allowed. The order passed by the learned Sessions Judge on 30.05.2015 in Criminal Revision No.18 of 2015 is unsustainable under law is quashed and the order passed by the Judicial



Magistrate 1st Class, Jamui on 03.02.2015 in Complaint Case No.712(C) of 2014 is upheld. The complaint Case No.712 (C) of 2014 stands quashed in the light of the order passed by the learned Judicial Magistrate, Ist Class, Jamui.

(Rajendra Menon, CJ)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.05.2018
Transmission Date	02.05.2018

