

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35178 of 2013

Arising Out of PS. Case No. -40 Year- 2011 Thana -DIHRINAGAR District- SASARAM
(ROHTAS)

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Kantey Kumar Singh @ Kanti Singh, Son of Sri Nand Jee Singh, Resident of
Village- Jakhibigha, Canal Road, P.S- Dehri, District- Rohtas. Petitioner/s
Versus

1. The State of Bihar
2. Umesh Pandey, Son of Late Raghuvansh Pandey, Resident of Village- Bhatauli,
P.S- Indrapuri, District- Rohtas.
3. Vijay Pandey, Son of Sri Ramayan Pandey, Resident of Village- Bhatauli, P.S-
Indrapuri, District- Rohtas. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No.13, Advocate
Mr. Rohit Kumar, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

For Opp. Party No.2 : Mr. Prabhat Ranjan Singh, Advocate

For Opp. Party No.3 : Mr. Uma Shankar Sharan, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
Date: 04-05-2018

Heard learned counsel for the petitioner and opposite
parties.

2. The petitioner has filed the present application for
quashing the order dated 18.07.2013 passed in Dehri (Indrapuri) P.S.
Case No. 40 of 2011, whereby the petitioner's application for
discharge under Section 239 of Cr.P.C. has been rejected.

3. The allegation in the present case is that at the
relevant time the petitioner in collusion with Sanjay Pandey was
mortgaged the joint family property of the family on the basis of
wrong genealogical table.

4. Opp. Party no.2 Umesh Pandey is the cousin
brother of the informant, whereas Vijay Pandey is own brother of



Sanjay Pandey. The subject matter of the mortgage is the joint family property.

5. The most interesting aspect of the matter is that the genealogical table, which was the basis of filing the present case, was supported by family members of the informant.

6. From the tenor of the complaint, it appears that basically it is a civil dispute and it is couched in criminal format to exert pressure owing to the family dispute over the ancestral property.

7. The Circle Officer has submitted report regarding title of the land. The father of opposite party no.3, who is the uncle of opposite party no.2 has submitted a detailed application to the Superintendent of Police, Rohtas indicating therein that the loan was applied with his consent and the loan was used for purchasing irrigation pump and boring and the loan has been paid regularly. He has also admitted the fact that the case was lodged due to partition dispute between the parties.

8. From the materials available on record, it appears that the loan account was closed after payment of the loan amount and thereafter the present case was lodged.

9. Considering the background of the case, being a Civil dispute, that the dispute pertains to the partition of the ancestral property and the fact that this petitioner at the relevant time was the



Branch Manager and he has sanctioned the loan on the basis of mortgage of land, which was supported by the family members the loan amount was paid. The dispute as to the genealogical table cuts no ice in the present case, when the Court finds that neither at the initial stage nor at the subsequent stage there was any role played by this petitioner in furtherance of the any criminal act.

10. In view of the fact that loan amount was paid before lodging of the instant case and the loan account was closed, the Court does not find any justification to allow this kind of litigation. Accordingly, the present application is allowed. The order rejecting the discharge petition is hereby set aside.

11. Considering the totality of the facts and considering the dispute to be primarily a civil dispute, the Court is of the view that the ends of justice requires that the case so far as this petitioner is concerned is to be closed. The petitioner deserves to be discharged in terms of Section 239 of the Cr.P.C. and is hereby accordingly discharged.

12. The present application is thus allowed.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.05.2018
Transmission Date	09.05.2018

