

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.708 of 2015

Arising Out of PS.Case No. -1899 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. Baleshwar Rai
 2. Satyendra Rai
 3. Rameshwar Rai,
- All sons of Late Madho Sharan Rai
4. Surendra Singh
 5. Upendra Pd. Rai
 6. Ajay Kumar
 7. Ashok Kumar
 8. Sudhir Kumar
- All sons of late Sukhdeo @ Sukhdeo Sharan Rai
All resident of Village Kauria Pali, P.S. Bihta, Dist. Patna.
9. Dharmendra Kumar, S/o Upendra Pd. Rai, resident of Village Kauria, P.S. Bihta, District - Patna.
 10. Kaushal Kishore, S/o Baleshwar Rai, resident of Mohalla - M/3, Sri Krishna Nagar, P.S. - Kotwali, Dist. Patna.

.... Petitioner/s

Versus

1. State of Bihar.
2. Brajendra Narain Singh, s/o late Shyam Nr. Singh, resident of Village - Tarwan, P.S. - Parsa Bazar, Distt. Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Singh, Advocate.
For the State : Dr. Rabindra Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 26-07-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 25.02.2013 passed by the learned Judicial Magistrate, 1st Class, Patna, in Complaint Case No. 1899(C) of 2012 by which the learned Magistrate after holding enquiry has found *prima facie* case against



the petitioners and other accused persons for the offences under Sections 420, 467, 468, 471 and 120(B) of the Indian Penal Code.

Heard learned counsel for the petitioners and learned counsel for the State.

The opposite party No. 2 has *suo motu* appeared by filing Vakalatnama, but today none appeared on his behalf although his name is appearing in the daily cause list.

From the complaint petition it appears that mere bald statement has been made by the complainant. There is no any description of land or boundary for which the sale deed has allegedly been executed in favour of the complainant and the sale deed has been executed by accused No. 1 to 8 in favour of accused No. 12, 13 and 14 as mentioned in the complaint petition.

Learned counsel for the petitioners has submitted that civil dispute is pending between the parties. It has further been submitted that the complainant himself has filed Title Suit No. 377 of 1991 giving description of land in schedule I of aforesaid Plaint with prayer for declaration of his right title over the same. The title of the complainant (opposite party No. 2) is itself under a cloud for which he has filed Title Suite for its declaration.

In the complaint petition, there is no any description of land and its boundary to substantiate that complainant was holding



certain land on the basis of decree of Court, as mentioned in the complaint petition. There is similarly no mention in the complaint petition about description of the land for which it is alleged that accused/petitioner Nos. 1 to 8 have executed forged sale deed in favour of other accused persons.

Therefore, this Court from the nature of allegation in the complaint finds that mere vague and bald allegation has been levelled against the petitioner. Moreover, from the nature of allegation made in the complaint petition, it appears to be purely civil dispute.

Therefore, the impugned order dated 25.02.2013 passed by the learned Judicial Magistrate, 1st Class, Patna, along with entire Criminal proceeding in Complaint Case No. 1899(C) of 2012 against the petitioners is hereby quashed.

This Criminal Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	31/07/2018
Transmission Date	31/ 07/2018

