

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15836 of 2018

Arising Out of PS.Case No. -1773 Year- 2007 Thana -SAHARSA COMPLAINT CASE District-
SAHARSA

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1. Jeevachh Paswan, S/o Janak Paswan,
2. Tuntun Paswan S/o Late Tarni Paswan,
3. Kailash Paswan S/o Late Shankar Paswan,
All are R/o Village- Bhamri Dhanupura, P.S.- Simri Bakhtiyarpur (O.P.
Kanariya), District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Shobha Kant Paswan S/o Sitambar Paswan, R/o Village- Bhamri
Dhanupura, P.S.- Simri Bakhtiyarpur (O.P. Kanariya), District- Saharsa.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pramod Mishra

For the Opposite Party/s : Mr. Sri Sanjay Kumar

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 01-11-2018 This application has been preferred for setting aside

the order dated 23.12.2017 passed by the learned Judicial
Magistrate-1st Class, Saharsa in Complaint Case No.C-
1773C/2007, arising out of a Criminal Case Complaint (P)-
0001431/15). By the impugned order, the learned Magistrate has
been pleased to reject the application under Section 245 Cr.P.C.
seeking discharge on behalf of the petitioners.

Learned counsel for the petitioners has taken this
Court through the contents of the impugned order and submits that
it is a case of civil nature, but has been falsely given the colour of
a criminal proceeding. Learned counsel submits that the learned
Magistrate has himself recorded in the impugned order that the



accused petitioners have claimed that they have purchased the land and in support of their claim they have filed unregistered sale-deed executed by Hari Nandan Singh in the year 1943. It is submitted that, if this is the position, then it cannot be said that the petitioners had indulged in forging the sale-deed and the rent receipts.

This Court finds that the petitioners are accused in a complaint case in which the evidence before charge has been recorded, but the materials which have come in course of evidence before charge have not been brought to the notice of this Court by filing the same on record. In these circumstances, while, at the first instance, it is not possible for this Court to look into the veracity of the submissions of the learned counsel for the petitioners, at the same time, it is not possible to take a different view, at this stage, when the learned Magistrate, on perusal of the records, referring to the various aspects of the matter, has held that in the present case there are materials available for framing of charge.

Learned counsel for the State is present, in the given facts and circumstances, this application is dismissed.

Arvind/-

(Rajeev Ranjan Prasad, J)

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