

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10362 of 2019

Arising Out of PS. Case No.-92 Year-2018 Thana- KARAHGAR District- Rohtas

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1. Radhey Shyam Prasad, Son of Late Ram Bachchan Prasad resident of Village-Bhadsara, P.S.-Kargahar Badhari, District-Rohtas.
 2. Bhukhi Prasad, Son of Late Ram Bachchan Prasad resident of Village-Bhadsara, P.S.-Kargahar Badhari, District-Rohtas.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sada Nand Roy

For the Opposite Party/s : Mr.Ashok Kumar Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 21-02-2019 Heard learned counsels for the petitioners and the State.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 341, 323, 504, 506, 420, 406, 467 and 468/34 of the IPC.

The prosecution case, as per the written report of Badri Prasad, dated 15.03.2018, submitted to the Station House Officer, Kargahar (Barhari) Police Station, is to the effect that the accused persons are the own brothers of the informant. The petitioner, in collusion with other brother of the informant, namely, Bhukhi Prasad, filed Partition Suit No. 655 of 2016, in the Court of learned Sub-Judge, Rohtas. In the said partition suit, Vakalatnama on behalf of the informant was filed by



forging his signature and subsequently, a compromise petition was also filed and some other person deposed impersonating the informant. It is further alleged that mother of the informant executed a will in favour of the daughter-in-law of the informant on 19.11.1996 and for probate of the said will, Probate Case No. 03 of 2013 has been filed which is pending before the learned Additional District and Sessions Judge-VIII, Rohtas and the said land has also been partitioned by virtue of a compromise.

It is submitted by learned counsel for the petitioner that even assuming the accusation to be true, the FIR is not maintainable in view of the fact that the forgery is alleged to have been committed in the Court proceeding then for initiating a criminal case, an enquiry under Section 340 Cr. P.C. was mandatory. Moreover, in the background of share dispute, the accusation has been levelled against the petitioners.

Learned APP submits that the accusation is specific against the petitioners.

Considering the accusation being levelled in the background of civil nature of dispute between the parties and the accusation suggest that forgery, if any, has been committed in the Court proceeding then the Court ought to have been informed first and the FIR does not suggest that any information



was given to the Court concerned, coupled with the statement made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent, let the above named petitioners be released on anticipatory bail in the event of arrest/surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of like amount each to the satisfaction of learned ACJM, Sasaram (Rohtas) in connection with Kargahar (Barhari) P.S. Case No. 92 of 2018, subject to the condition as laid down under Section 438(2) of the Cr. P.C.

(Dinesh Kumar Singh, J)

Amrendra/-

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