

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.7866 of 2015**

Arising Out of PS. Case No.-561 Year-2011 Thana- PATNA COMPLAINT CASE District-  
Patna

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Sushil Kumar Bajaj S/O Late Purushottam Das Bajaj, resident of- 301, Mansarowar Garden, Satyam Block, Frazer Road Patna, P.S. Kotwali, Distt- Patna. Managing Director of Bajaj Buildcon Pvt. Ltd. 203, N.P. Centre, New Dak Banglaw Road, P.S. Kotwali, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ramanand Paswan, S/o Late Jamuna Paswan @ Jamuna Bhagat, resident of village- Niyamat Chak, P.O.- Mohanpur, Police Station- Punpun Gaurichak, District- Patna

... .. Opposite Party/s

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**Appearance :**

|                            |   |                                       |
|----------------------------|---|---------------------------------------|
| For the Petitioner/s       | : | Mr.Sunil Kumar, Advocate              |
|                            |   | Mr. Pramod Kumar, Advocate            |
| For the Opposite Party/s : |   | Mr. Jharkhandi Upadhyay, APP          |
| For Opposite Party No.2:   |   | Mr. Rajendra Kishore Prasad, Advocate |
|                            |   | Mr. Devendra Kumar, Advocate          |

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR**  
**ORAL JUDGMENT**  
**Date : 27-06-2019**

Heard learned counsel for the petitioner, learned Additional Public Prosecutor for the State and learned counsel for Opposite Party No.2.

2. The petitioner being Managing Director of Bajaj Buildcon Pvt. Ltd. has been arrayed as one of the accused in Complaint Case No.561(C) of 2011 brought by Opposite Party No.2 Ramanand Paswan before the learned Chief Judicial Magistrate, Patna.

3. By order dated 09.05.2011, the learned Judicial Magistrate, 1<sup>st</sup> Class, Patna, where the case was transferred,



issued summons against the petitioner and others to face trial for the offences under Sections 468, 471, 323 and 506 of the Indian Penal Code.

4. The challenge is on the ground that no offences for which the petitioner has been asked to face trial are prima facie made out against the petitioner.

5. According to complaint petition survey plot No. 664 under Khata No.849, area 66 decimals was recorded in survey Khatian in the name of Ram Vilash Paswan and Badri Paswan, the ancestors of the complainant, however, accused Ganga Paswan sold the same land on 02.11.2010 through registered sale deed in favour of Bajaj Buildcon Pvt. Ltd. represented by the petitioner. When the complainant came to know, he filed a civil suit bearing Title Suit No.369 of 2010 for declaration of title and possession of the complainant as well as for declaration of the sale deed dated 02.11.2010 in favour of the petitioner as null and void, imaginary and concocted.

6. Contention of the petitioner is that one Rangu Paswan was owner of that plot. He executed a registered deed of gift (Annexure-4) in favour of his two daughters Phekani and Jhaliya gifting the referred plot amongst other plots of Rangu Paswan. The referred plot No.664 fall in the share of Phekani,



the mother of Ganga Paswan, the vendor of the petitioner. As such, the entire transaction by Ganga Paswan is a bona fide transaction for consideration and valid title has passed over in favour of the petitioner.

7. Contention of the opposite parties is that the learned Court-below has passed the order of cognizance, which is supported by the material on the record, disclosing ingredients of cognizable offences. This Court cannot enter into re-appreciation of the evidence and substitute its own view in exercise of power under Section 482 of the Cr.P.C.

8. There is no allegation against the petitioner that he caused hurt to the complainant. Hence, offences under Section 323 of the Indian Penal Code is not made out. Further there is no allegation of commission of criminal intimidation by the petitioner. Hence, cognizance under Section 506 of the Indian Penal Code is without application of mind. This is not a case wherein forgery, as defined under Section 463 of the Indian Penal Code, have been committed because the document which has been executed by Ganga Paswan was under bona fide belief based on material on the record that the property was of his mother. Therefore, dishonest and fraudulent intention cannot be gathered in execution of the sale deed in favour of the petitioner.



If Ganga Paswan would not have produced the document of title i.e., gift deed, in favour of her mother, it might have been argued that he had no bona fide claim on the land. Therefore, offences under Section 468 and 471 of the Indian Penal Code are apparently not made out. As such, the entire cognizance order is vitiated in law.

9. The material on the record does not prima facie show that the sale deed executed by Ganga Paswan in favour of the petitioner was document dishonestly and fraudulently made to put wrongful claim on the property of some other. Here sufficient material is there to show the bona fide claim of Ganga Paswan on the property with respect to which he has executed registered sale deed in favour of the petitioner. Therefore, it is a case of bona fide civil dispute and only of bona fide civil dispute which is already going on before a competent Court.

10. Therefore, in my view, the entire criminal proceedings as well as the impugned order is an abuse of the process of the Court. As such, the same is quashed and the application is allowed.

**(Birendra Kumar, J)**

Mkr./-

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