

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4359 of 2015

Arising Out of Case No.-3866(C) Year-2013 Thana- PATNA COMPLAINT CASE District-
Patna

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Jaglal Prasad @ Jaglal Prasad Yadav @ Jagrup Prasad Yadav S/o Late Harihar Prasad Yadav Resident of Mohalla Vijay Nagar, J-12, P.S. Patrakar Nagar, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ram Lakhan Prasad Yadav S/o Late Harihar Prasad Yadav Resident of Mohalla Vijay Nagar, J-12, P.S. Patrakar Nagar, District Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Kumar with Mrs. Manisha Prakash, Advocates
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the O.P. No. 2	:	Mr. Nand Kishore Prasad Sinha with Mr. Surendra Arya, Advocates

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 08-05-2019

Heard learned counsel for the petitioner; learned APP for
the State and learned counsel for the opposite party no. 2.

2. The petitioner has moved the Court under Section 482
of the Code of Criminal Procedure, 1973 for the following relief:

“That this is an application for quashing the order dated 06.08.2014 passed by Sri Krishna Gopal, the learned Judicial Magistrate, 1st class, Patna in Complaint Case No. 3866 (C)/2013 by which the court below has been pleased to take cognizance for offence U/s. 467, 468 and 420 of the Indian Penal Code which is illegal and is under challenge.”



3. The allegation against the petitioner is that in the house of the complainant-opposite party no. 2, who is his full brother, and where he was living as a tenant, he had applied to the authorities for installation of a meter in his name in which forged and fabricated affidavit/ 'No Objection Certificate', purportedly of the opposite party no. 2 had been submitted.

4. Learned counsel for the petitioner submitted that both are brothers and are living in the house and eviction suit is also pending between the parties. It was submitted that as the opposite party no. 2 had cut the electricity connection to his portion of his house, he was forced to apply for separate meter. At this stage, on a direct query of the Court as to how forging documents by putting false signature of the opposite party no. 2 on an affidavit/ 'No Objection Certificate' for obtaining separate electricity connection, can be justified and further how such act is not criminal in nature, learned counsel could not meet the query of the Court.

5. Learned APP and learned counsel for the opposite party no. 2 submitted that the house in question was purely from self earning money of the opposite party no. 2 and built by taking loan from the Bank. It was submitted that because the petitioner was the elder brother of the opposite party no. 2, he had given the house to him for living but when he needed it for his own purpose,



the petitioner refused to vacate for which he had filed Eviction Suit No. 126 of 2011, which was still pending in the Court below at Patna. It was submitted that the petitioner had forged the signature of the opposite party no. 2 on the affidavit/ 'No Objection Certificate' and clearly has committed criminal offence.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the present application. From what has been alleged in the complaint petition, the same clearly disclose a criminal offence for which criminal proceeding is very much maintainable. Further, on the basis of materials before the Court, including the complaint petition as well as the statement of witnesses, the Court finds that taking of cognizance by the Court below, which is under challenge in the present application, cannot be said to be suffering from any legal or factual infirmity.

7. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J)

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