

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No.63 of 2017

Arising Out of PS. Case No.-1141 Year-1997 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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Zaheer Akhtar, S/o Late Abdul Waheed, R/o Village- Banjarha, P.S.- Kundwa
Chainpur, District- East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Shekh Latif, Son of Shekh Wali Mohammad, (Deleted V/O Dt.25.07.2019)
3. Shekh Shafique, Son of Shekh Wali Mohammad,
4. Shekh Wakeel S/o Shekh Latif,
5. Shekh Rahmat, S/o Late Shekh Ibrahim,
6. Md. Nasrul Haque S/o Late Shekh Hameed, All R/o Village- Masodha, P.S.-
Banjarha, District- East Champaran.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mrr. S. Arshad Alam, Advocate. Md. Anisur Rahman, Advocate. Mrs. Anjum Praveen, Advocate.
For the Respondent/s	:	Mr. Shyed Ashfaque Ahmad, APP

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**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL JUDGMENT

Date : 01-08-2019

1. This application under Section 378(4) of the Code of Criminal Procedure has been filed by the complainant-petitioner seeking the Leave to Appeal against the Judgment and order dated 13.09.2017 passed in Complaint Case No. C-1141 of 1997 (Trial No. 401 of 2017), whereby and whereunder, the learned A.C.J.M.-XIV, East Champran, Motihari, acquitted the respondent nos. 2 to 6 to the charges punishable under Sections 420, 468, 474, 471, 465, 419 and 467 of the Indian Penal Code.



2. In brief as per complaint petition of complainant-petitioner, Jaheer Akthar is that Bibi Laduan was his aunt and she was also sister of his mother-in-law and her property was being looked after by him and the property is in his possession. Bibi Laduan died on 14.09.1997. On 26.09.1997, he came to know that opposite party nos. 2 to 6 under conspiracy for unlawful gain and to cause loss to him and successor of Bibi Laduan, presented a fake lady in place of Bibi Laduan and created forged and fabricated document and got registered the same on 23.09.1997 in their favour. On 27.09.1997, complainant-petitioner obtained certified copy of document and came to know that opposite party nos. 2 to 6 got executed forged and fabricated Bakhshishnama in respect to 16 Kattha 19 Dhur land of Bibi Laduan. The witnesses had seen to opposite party nos. 2 to 6 taking thumb impression of a lady and producing her in Registry Office. When complainant-petitioner asked to opposite party nos. 2 to 6 about aforesaid misdeed they made attempt of scuffle.

3. In course of trial, the complainant-petitioner examined, altogether, four witnesses including himself as P.W.4 and got exhibited several documents in support of his case.

The learned A.C.J.M.-XIV, East Champaran, Motihari, considering the evidence available on record arrived at conclusion



that complainant-petitioner himself admitted in his evidence that after death of Bibi Laduan, her property belongs to real owner Haji Shekh Samsuddin and Mst. Mustkima Khatoon and both are live and both have not filed any case against the opposite party nos. 2 to 6 and also Civil Suit is pending in between both parties.

4. Learned counsel for the complainant-petitioner submits that certified copy of thumb impression chart of expert was brought on record in Title Suit No. 154 of 2000 and the same was marked as Ext.6 in respect to *Bakhshishnama* in the case but the learned trial court has not considered the same.

Admittedly, the Title Suit No. 154 of 2000 is still pending in between complainant-petitioner and the opposite party nos. 2 to 6 while thumb impression chart of expert filed in the said suit was filed in present case and marked as Ext.6 but the expert has not been examined in this case as appears from the impugned Judgment. As such, mere marking the exhibit of thumb impression chart of expert could not be read as evidence as Title Suit No. 154 of 2000 is still pending for disposal and no finding has been given in the Title Suit in that regard. As such, I find no any reason to allow the present Special Leave to Appeal against the Judgment dated 13.09.2017 passed by the court of A.C.J.M.-XIV, East



Champran, Motihari in Complaint Case No. C-1141 of 1997/Trial
No. 401 of 2017 and accordingly, the same is dismissed.

(Rajendra Kumar Mishra, J)

Bhardwaj/-

AFR/NAFR	
CAV DATE	
Uploading Date	14.08.2019
Transmission Date	14.08.2019

