

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11986 of 2015**

Arising Out of PS. Case No.-776 Year-2013 Thana- SAHARSA COMPLAINT CASE
District- Saharsa

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1. Shyam Kishore Yadav, son of Late Satya Narayan Yadav, resident of Godhiari, P.S. and District - Madhepura.
 2. Shiv Pujan Rajak, son of Late Jhunnu Rajak, resident of Mohalla - Kayasth Tola, P.S. and District - Saharsa.
 3. Shiv Nandan Gupta, son of Late Jahuri Gupta, resident of Mohalla - Batraha, Ward No. 25, P.S. and District - Saharsa.
 4. Ganesh Jha, son of Late Ramrup Jha, resident of village - Sihaul, P.S. - Bihra, District - Saharsa.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Maheshwar Sada, son of Late Pancha Sada, resident of village - Sardiha, P.S. - Bakhtiyarpur, District – Saharsa, presently residing at village - Shonpura, P.S. - Bakhtiyarpur, District - Saharsa.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Mishra, Advocate
For the Opposite Party/s : Mr.Pranav Kumar APP

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT**

Date : 01-07-2019

Heard learned counsel for the parties.

2. Petitioners are accused in connection with
Complaint Case No.776 of 2013, brought by opposite party No.2.

3. By the impugned order dated 14.03.2014, the
learned Judicial Magistrate-1st Class, Saharsa has taken
cognizance against the petitioners for the offences under Section
420/34 of the Indian Penal Code and has ordered for issuance of
process under Section 202 of the Code of Criminal Procedure.



4. Contention is that perusal of the entire complaint petition would reveal that entire statement regarding identity of the land claimed by the complainant or nature of act of cheating committed by the petitioner is vague one and not ascertainable. Hence, the criminal prosecution is abuse of process of the court.

5. From the complaint petition, it is evident that the complainant claims that his house is on his own land bearing the referred *Khata* and *Plot No.*, whereas the perusal of the entire complaint petition would reveal that no *Khata* or *Khesra No.* is mentioned therein. In the circumstances, the allegation that a forged *Parcha* was issued in the name of *Krishna Rai* by other co-accused is not acceptable.

6. It is easy to allege conspiracy but difficult to prove. There is bald allegation between the accused persons in creation of document but there is no averment regarding nature of conspiracy and nature of role played by the individual accused in that conspiracy. The complaint petition further reveals that on rumor the complainant came to know that the accused persons are going to claim over his land on the basis fictitious document.

7. Since the entire complaint petition suffers from vagueness, the criminal prosecution against the petitioner would amount to abuse of process of the court. Hence, the impugned



order and the entire subsequent proceeding stands *quashed* and
this application stands *allowed*.

(Birendra Kumar, J)

abhishek/-

AFR/NAFR	NAFR
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