

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7106 of 2015

Arising Out of PS. Case No.-1899 Year-2012 Thana- Patna Complaint Case District- Patna

1. Kapildeo Singh, son of Ambika Singh
2. Kamaldeo Singh, son of Ambika Singh
3. Arbind Kumar Singh, son of Ambika Singh.
All resident of village - Bhupatipur, P.S. Ramkrishna Nagar, District – Patna.
4. Binay Kumar Singh, S/o Late Devnandan Singh, resident of village - Bhupatipur, P.S. Ramkrishna Nagar, District – Patna.
5. Shailesh Kumar S/o Sri Hanslal Singh
6. Dilip Kumar, S/o Late Sarvanand Singh
Both Resident of Village - Palanga, P.S. Parsa Bazar, District - Patna
7. Sunil Kumar @ Sunil Kumar Singh, S/o Late Basudeo Singh, Resident of Mohalla - Rupaspur, P.S. Rupaspur, District – Patna.
8. Smt. Leela Devi, W/o Bishwanath Rai, Resident of Mohalla - New Yarpur, Janta Road, P.S. Gardanibagh, District - Patna

... .. Petitioners

Versus

1. The State of Bihar
2. Brajendra Narain Singh, S/o Late Shyam Nr. Singh, resident of village - Tarwan, P.S. Parsa Bazar, Distt. - Patna.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Singh, Advocate
For the Opposite Party/s : Mr.P.K.Chaurasiya, APP

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 09-05-2019

Heard learned counsel for the petitioner. Though the opposite party no.2 has appeared through advocates, but no one is present to represent him.

In the present case, the petitioners are challenging the order of cognizance dated 25.02.2013 passed in Complaint Case No. 1899 (C) of 2012 by the Judicial Magistrate, 1st Class,



Patna, whereby and whereunder she has taken cognizance under Section 420, 467, 468, 471 and 120(B) of the Indian Penal Code having held that *prima facie* the case is made out against the petitioners. The complaint petition itself relates to execution of the sale deed by the accused persons in favour of opposite party no.2. In order to settle the dispute, a Title Suit No.377 of 1991 has been filed, wherein description of land in schedule I of aforesaid Plaint with prayer for declaration of his right title over the same has been made, which is still pending. In such event, the entire proceeding is nothing but settling the score of civil dispute between the parties through criminal case, which is under adjudication in the civil suit, inasmuch as, the complaint petition does not depict the description of the land and its boundary to substantiate the claim of the complainant that he was holding certain land on the basis of decree of Court, as mentioned in the complaint petition.

Altogether nine persons had approached this Court in Criminal Miscellaneous No.708 of 2015, challenging the order of cognizance passed in complaint Case No. 1899(C) of 2012 and this Court vide judgment and order dated 26.07.2018 allowed the said petition, thereby quashed the order of cognizance.



Taking holistic view of the matter as also taking into consideration the order passed by this Court, the order dated 25.02.2013 passed by the Judicial Magistrate, 1st Class, Patna, along with entire criminal proceeding in Complaint Case No. 1899 (C) of 2012 against the present petitioners is hereby quashed.

Accordingly, this petition is allowed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	10.05.2019
Transmission Date	

