

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.600 of 2018**

Arising Out of PS. Case No.-2206 Year-2016 Thana- SIWAN COMPLAINT CASE District-  
Siwan

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1. Suresh Singh, Son of Late Sukdeo Singh.  
2. Harinandan Singh, Son of Late Paras Singh.  
3. Uttam Singh, Son of Late Lakshman Singh.  
4. Amar Singh, Son of Late Lakshman Singh.  
All R/o Vill.-Sakra, P.S. Gautam Budha Nagar, District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar.  
2. Rabindra Nath Singh, Son of Late Baijnath Singh, R/o Vill.-Sakra, P.S.  
Gautam Budha Nagar, District-Siwan.

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Shailendra Kumar Singh, Adv.  
For the Opposite Party/s : Mr. Akhileshwar Dayal, APP  
Mr. Krishna Kant Singh, Adv.

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**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**  
**ORAL ORDER**

5      19-11-2019                      Heard   Mr.   Shailendra   Kumar   Singh,   learned  
  
Advocate for the petitioners and Mr. Krishna Kant Singh,  
  
learned Advocate for the opposite party No. 2.

The petitioners seek quashing of the order dated



02.03.2017 passed by the learned 4<sup>th</sup> Additional Chief Judicial Magistrate, Siwan in connection with Complaint Case No. 2206 of 2016, whereby cognizance has been taken under Sections 465, 468 and 471/34 of the Indian Penal Code.

The only allegation in the complaint petition is that petitioner No. 1 sold off a plot of land to petitioner No. 2, which plot of land belonged to as it fell in the share of the complainant/opposite party No. 2. Petitioner Nos. 3 and 4 are the persons who identified the vendor and the vendee and were witnesses to the sale-deed.

From the enquiry under Section 202 of the Cr.P.C., it is apparent that petitioner No. 1 and opposite party No. 2 come from the same stock of family and it has been admitted by the complainant/opposite party No. 2 that petitioner No. 1 is also a shareholder of the larger plot of land which has an area is 12 kathas and 7 decimals.

According to petitioner No. 1, he owns half of the aforesaid plot of land, whereas opposite party No. 2 has claimed that petitioner No. 1 has only  $\frac{1}{4}$ <sup>th</sup> share in half of the



aforesaid plot of land.

In any view of matter, the area of land which has been transferred by petitioner No. 1 to petitioner No. 2 is 15 decimals. Even if such land has fallen in the share of the complainant/opposite party No. 2, it cannot lead to any inference that there was an intention to cheat or defraud or that any offence under Sections 465 and 468 of the Indian Penal Code could possibly have been made out.

There is nothing on record to demonstrate that offence under Section 471 of the Indian Penal Code has been made out.

Assuming but not admitting that there was no proper partition by metes and bounds, but it is the admitted case that petitioner No. 1 also has the share in the aforesaid property. In that event of the matter, even if the some land falling in the share of opposite party No. 2 have been sold, the same could be adjusted in any further settlement of the shares of the land.

This cannot, but, give rise to any criminal prosecution. The lodging of the complaint, therefore, is a



misadventure on the part of the complainant/opposite party  
No. 2, which ought not to be permitted.

Considering the aforesaid aspect, this Court is  
inclined to and sets aside the order of cognizance dated  
02.03.2017 and the entire criminal prosecution arising  
therefrom.

The petition stands allowed.

The result of the present proceeding will not be  
read to the prejudice to the rights and contentions of the  
parties before any Court of law in other proceeding.

**(Ashutosh Kumar, J)**

Praveen-II/-

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