

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18854 of 2015

Arising Out of PS. Case No.-143 Year-2013 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Vijay Kumar Singh
 2. Sujeet Kumar Singh
 3. Amarjeet Kumar Singh @ Amarjeet Singh
 4. Krishna Kumar Singh, All are son of Late Rajeshwari Singh, R/o village-
Rasalpura, P.S.- Doriganj, District- Saran
 5. Santosh Kumar Singh, S/o Ravinesh, All are R/o village- Mainpura, P.S.-
Patliputra, District- Patna

... .. Petitioner/s

Versus

1. State Of Bihar
2. Chatendra Singh, S/o- Late Baskit Narayan Singh @ Late Basgit Narayan
Singh, R/o Village- Saidanpur, P.S.- Gaurichak, District- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anant Kumar Bhaskar, Advocate
For the Complainant	:	Mr. Manish Jha, Advocate
For the Opposite Party/s	:	Mr. U.S.P.Singh, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 15-07-2019

Heard learned counsel for the petitioner, learned
Additional Public Prosecutor for the State and learned counsel for
the Opposite Party No. 2.

2. The petitioner has challenged the order of cognizance
dated 07.05.2013 passed in Complaint Case No. 143/C of 2013
whereby cognizance has been taken for the offences under
Sections 467, 468, 471 and Section 120B of the Indian Penal Code.

3. According to complaint, the petitioners and
complainant are descendants of common ancestor, Late Nandlal



Singh. Nandlal Singh had three sons. Accused persons are from the branch of Chhedi Singh and complainant is from the branch of Kamta Prasad Singh. Pedigree of Bengali Singh, the third brother is not mentioned.

5. According to the complainant, in the year 1965 itself oral partition took place and plot no. 503 was allotted along with the others to the complainant.

6. Just to cheat the complainant the accused persons had created a registered sale deed in favour of Santosh Kumar on 11.09.2012. Though, they have no right to transfer plot no. 503. Title suit no. 815 of 2012 is already going on between the parties for conciliation of the aforesaid sale deed.

7. Submission of learned counsel for the petitioner is that in fact plot no. 503 is of the petitioners. Both sides have produced possession certificate issued by the circle office in support of aforesaid plot. The matter is purely of civil dispute. Hence, criminal prosecution is abuse of the process of law.

8. Learned counsel for the complainant submits that prima facie allegation is there of creation of forged document by making interpolation in the land possession certificate. Hence, this court should not interfere in the cognizance order. He further



submits that the civil dispute is no bark of criminal proceeding if the offences of under the Penal Code are apparently made out.

9. Undisputed fact of this case is that the parties are descendants of common ancestor. This is also not disputed that plot no. 503 and other plots were joint property of the family. There is no document of partition by meets and bounds between the parties. Therefore, apparently, the matter appears to be of civil dispute only for the reason that unless partition by metes and bounds is proved. The presumption would be of unity of title and possession. Hence, criminal prosecution of the petitioners amounts to an abuse of the process of the court.

10. Accordingly, the impugned order and entire proceedings against the petitioners stands quashed and the petition is allowed.

(Birendra Kumar, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

