

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86369 of 2019

Arising Out of PS. Case No.-231 Year-2016 Thana- ARA MUFFSIL District- Bhojpur

1. RAI RAJA RAM SINGH @ RAY RAJA RAM SINGH Son of Late Brahmeshwar Dayal Singh Resident of Village - Saidpur, P.S.- Ara Muffassil, District- Bhojpur. At present Resident of Mohalla - Vidyapuri (Yogipur), P.S.- Patrakar Nagar, District- Patna
2. Meera Devi Wife of Upendra Prakash Singh Resident of Village - Chandwa, P.S.- Nawada, District- Bhojpur
3. Upendra Prakash Singh Son of R.K. Singh Resident of Village - Chandwa, P.S.- Nawada, District- Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ram Bhuwal Bharat Singh Son of Late Brahmeshwar Dayal Singh Resident of Village - Saidpur, P.S.- Ara Muffassil, District- Bhojpur. At present Resident of Mohalla - Vidyapuri (Yogipur), P.S.- Patrakar Nagar, District- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar
For the Opposite Party/s : Mr.Jagdhari Prasad

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 07-01-2020 This application has been filed for quashing the order dated 16.02.2018 passed by Sri Rajesh Singh, learned Judicial Magistrate -1st Class, Bhojpur, Ara in Trial No. 551 of 2018, G.R. No. 3958 of 2016, arising out of Ara Muffasil P.S. Case No. 231 of 2016, by which, charged have been framed against the petitioner under Sections 341, 323, 406, 467, 468, 471 and 504 of the Indian Penal Code.

Case in short is that a complaint case i.e. Complaint Case No. 982C of 2016 was filed by the complainant before the



learned Chief Judicial Magistrate, Bhojpur, Ara stating therein inter alia that his father had purchased a piece of land measuring area 1 acre 60 decimals, bearing Khan No. 42, Khesara No. 395, Thana No. 272 in Mauza – Mathurapur, P.S.- Ara Muffasil and after death of father all four brothers were enjoying joint possession of the land. However, without any knowledge to him and his two brothers, petitioner no. 1 another brother of complainant sold 80 decimal of land in favour of petitioner no. 2, who is wife of petitioner no. 3, through sale deed dated 25.11.2015. It is also alleged that when complainant came to know about the registration of sale deed, he went to the petitioners for enquiry, he was abused and assaulted by the accused persons.

The above complaint petition was sent for registration of F.I.R. and on the basis of which, Ara Muffasil P.S. Case No. 231 of 2016 was registered. It further appears that police after investigation submitted chargesheet against the petitioners and other accused persons under Sections 341, 323, 406, 467, 468, 471, 504/34 of the Indian Penal Code. Later on case was transferred for trial to the Judicial Magistrate-1st Class, who vide order dated 16.02.2018 framed the charges against the accused persons and explained the same to them, to



which, they denied the charges.

Against the above order dated 16.02.2018, the present application has been filed. It also appears that no petition under Section 239 Cr.P.C. has been filed by the petitioners for their discharge.

Submission of learned counsel for the petitioners is that complainant and petitioner no. 1 are brothers and it is a family dispute. Moreover, in the sale deed, the name of complainant also appears, which is evident of Annexure – 3 and they have jointly sold the land, thereafter, the present case has been filed and as such, the continuation of the proceeding will only be an abuse of process of law.

Heard learned A.P.P. and perused the materials available on record, from which, it appears that there is allegation against the petitioners that they sold the joint property land and petitioner no. 1, who is brother of complainant executed sale deed in favour of petitioner no. 2, who is wife of petitioner no. 3. It further appears that when complainant came to know about the same by acquiring certified copy of sale deed, he went to the petitioners for enquiry, where, they abused the complainant and assaulted him.

In view of the facts as discussed above, there



appears to be a prima facie case against the petitioners. It is also well settled that only on the plea that the dispute is civil in nature, the quashing of the order cannot be done as the same depends on the facts of the each case and in this case, there is clear case that when complainant came to know about the registration of sale deed, he went to the petitioners for enquiry, where he was abused and assaulted and, therefore, it cannot be said that no criminal liability is made out.

Considering the above facts, I am not inclined to interfere with the order dated 16.02.2018 passed by Sri Rajesh Singh, learned Judicial Magistrate -1st Class, Bhojpur, Ara in Trial No. 551 of 2018, G.R. No. 3958 of 2016, arising out of Ara Muffasil P.S. Case No. 231 of 2016.

This application is, accordingly, dismissed.

(Vinod Kumar Sinha, J)

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