

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20477 of 2020

Arising Out of PS. Case No.-856 Year-2019 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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1. BANARSI GUPTA S/o Butan Sah Resident of Village-Muradih, P.S.-Bhitaha, District-West Champaran.
 2. Sadanand Sah Son of Satanarayan Sah Resident of Village-Brit Badahara, P.S-Bhitaha, District-West Champaran.
 3. Kanhaiya Yadav Son of Bandew Yadav Resident of Village-Muradih, P.S.-Bhitaha, District-West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pradeep Mani Mishr @ Chhotan Mishr Son of Late Praduman Mishra Resident of Village-Banktwa, Police Station-Bathuwdiya, District-West Champaran, present address Purani Gudri, Police Station-Bettiah, District-West Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arvind Kumar, Adv.
For the Opposite Party/s : Mr.Shailendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 10-03-2021 Heard learned counsel for the petitioners, learned
Addl. P.P. and learned counsel for the complainant.

The petitioners apprehend their arrest in Complaint
Case No. 856 of 2019, registered for the offences punishable
under Sections 120(B), 420, 406, 467, 468, 471, 387, 323, 341,
506/34 of the Indian Penal Code.

The complainant alleged that he owns two Kathas
land of Khesra No. 582, Khata No. 87 in village Manju Brit
Barhara P.S. Bhitaha by virtue of judgment dated 30.09.2016



passed by the learned Sub Judge IIIrd, Bettiah, West Champaran but petitioner no. 1 executed a registered sale deed on 09.10.2017 in favour of petitioner no. 2. Petitioner no. 3 is witness of the sale deed.

Learned counsel for the petitioners submits that petitioner no. 1 is the real owner of the property. The property is his ancestral property but the complainant obtained the decree concealing the same material facts for which the petitioners filed Misc. Petition on 25.01.2017 for setting aside the *x-parte* judgment and decree. Petitioner no. 1 executed sale deed on 09.10.2017 in favour of petitioner no. 2. The dispute is purely of civil nature and if the complainant is owner of the land the sale deed executed by petitioner no. 1 in favour of petitioner no. 2 shall be null and void and inoperative but no criminal offence is made out.

Learned counsel for the complainant vehemently opposed the prayer for anticipatory bail and submits that petitioner no. 1 himself filed petition for setting aside the *x-parte* judgment on 25.01.2017 but without getting the *x-parte* judgment set aside he himself fraudulently executed the sale deed in favour of petitioner no. 2. This fact shows the fraudulent intention of petitioner no. 1.



Having considered the submissions and from perusal of the records it appears that it has come that the records of right of land was earlier standing in the name of petitioner no. 1 but by virtue of *x-parte* judgment, the complainant claimed the land. Petitioner no. 1 filed petition for setting aside the *x-parte* judgment.

Taking into consideration the facts aforesaid, I find that petitioners deserve anticipatory bail. Prayer is allowed. The petitioners, above named, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Addl. Chief Judicial Magistrate 1st, Bagaha, West Champaran in connection with Complaint Case No. 856 of 2019, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Prabhat Kumar Jha, J)

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