

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 28100 of 2020

Arising Out of PS.Case No.-184 Year-2019 Thana- KANTI THARMAL POWER District-
Muzaffarpur

-
1. Pramod Kumar (Male), aged about 35 years, Son of Late Bhikhari Choudhary.
 2. Nawal Kishore Choudhary (Male), aged about 51 years, Son of Yogendra Choudhary.
 3. Manoj Chaudhary (Male), aged about 49 years, Son of Nagendra Chaudhary.
All resident of Village- Kaparpura, PS- Kanti, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Kumar Manglam, Advocate
For the State	:	Mr. Ajay Kumar Jha, Advocate
For the Informant	:	Mr. Sanjay Kumar @ S K Anjana, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 05-03-2021

Heard Mr. Shashi Bhushan Kumar Manglam, learned counsel for the petitioners; Mr. Ajay Kumar Jha, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State and Mr. Sanjay Kumar @ S K Anjana, learned counsel for the informant.

2. The petitioners apprehend arrest in connection with Kanti PS Case No. 184 of 2019 dated 14.03.2019, instituted under Sections 420, 467, 468, 469, 470 and 471 of the Indian Penal Code.



3. The allegation against the petitioners is that he had sold land which did not belong to him after fraudulently getting the name of his grandfather entered in the revenue records.

4. Learned counsel for the petitioners submitted that there are discrepancies in the revenue records as at places the name of the grandfather of the petitioners is mentioned as husband of Ram Sundari Devi whereas at other places, the name of the husband of Ram Sundari Devi is mentioned as Ram Avatar Chaudhary. It was submitted that the land belonged to Ram Sundari Devi and that Ram Sundari Devi was the grandmother of the petitioners and not the informant. It was submitted that even in the report of the officers, it has been stated that in the Register-II, the name of Ram Sundari Devi shows her husband's name as Hiranman, which has been encircled and in place of that Ram Avatar Chaudhary has been written, which clearly reflects that the grandfather of the petitioners was the person whose wife Ram Sundari Devi was the owner of the lands in question, and by that account, the petitioners being the direct descendants, have rightly executed the sale deed and further that the purchaser has been put in possession. Learned counsel submitted that such dispute with regard to identity is also a civil matter and the process of the criminal Court should not have been invoked. Learned counsel



submitted that reliance of the informant on a sale deed of the year 1943 is also misplaced as such sale deed is in the name of Ram Avatar Mahto and not Ram Avatar Chaudhary and further that the name of Ram Sundari Devi in the revenue records could not have been possible if the sale deed was in favour of Ram Avatar Mahto or Ram Avatar Chaudhary and such mutation has to be in the name of the purchaser and not the wife of the purchaser.

5. Learned APP, from the case diary, submitted that in the village, there were two Ram Sundari Devi and the name of the husband of the two women was Ram Avatar Chaudhary and Hiranman and the informant is the descendant from Ram Avatar Chaudhary whereas the petitioners are the descendant of Hiranman. It was submitted that during the course of investigation, it has been found that the land in question is the same land though bearing a new number now with regard to which there is a sale deed in favour of Ram Bilash Mahto of the year 1943.

6. Learned counsel for the informant, drawing the attention of the Court to the counter affidavit filed by him submitted that the sale deed clearly indicates that 60 decimals of the said plot was purchased by his grandfather and the present dispute of 37 decimals is part of that 60 decimals. It was further submitted that it is for the petitioners to explain as to how the land



which was bought by Ram Avatar Mahto or Ram Avatar Chaudhary can be claimed by the descendants of Hiranman. It was submitted that the sale deed has been executed by the petitioners and they has to explain how they was competent to execute the sale deed not being the grandsons of Ram Avatar Mahto or Ram Avatar Chaudhary.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-arrest bail to the petitioners.

8. Accordingly, the application stands dismissed.

9. However, if the petitioners appear before the Court below within four weeks from today and pray for bail, the same shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J.)

P. Kumar

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