

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20895 of 2018**

Arising Out of PS. Case No.-222 Year-2017 Thana- MUZAFFARPUR TOWN District-
Muzaffarpur

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1. Seema Mishra and Anr W/o Purnendu Narayan Mishra,
2. Purnendu Narayan Mishra, S/o Late Indra Narayan Mishra, Both R/o
Mohalla- Ahiyapur, P.S.- Ahiyapur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. State of Bihar and Anr
2. Binod Prasad Yadav, S/o Late Dhodhari Rai, R/o Village- Hanuman Nagar,
P.S.- Gaighat, District- Muzaffarpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Mukund Mohan Jha, Advocate Mr. Hari Mohan Mishra, Advocate
For the State	:	Md. Nazir Ansari, APP

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 03-11-2022

Heard learned counsel for the petitioners and learned
APP for the State.

From perusal of office note shows that the notice has
been received by opposite party no. 2 personally and service report
is on record.

But no one appears on behalf of the opposite party no. 2
and hence the matter has been put up for hearing.

The present petition has been filed for quashing of the
FIR with regard to the petitioners which has been instituted as
Muzaffarpur (Town) P.S. Case No. 222 of 2017 registered for the
alleged offences under Sections 467, 468, 471, 420 and 406 of the
Indian Penal Code.



The FIR has been instituted on the basis of written report of respondent no. 2 Binod Prasad Yadav. It has been submitted in the written report that the informant/respondent no. 2 along with co-accused Deepak Kumar and Bhaiya Lal Rai had jointly purchased a piece of land measuring three katha bearing Khata No. 46, Khesra No. 1032, Chak Khesra No. 714 from one Dularchand Sah and the land was mutated in their names. Subsequently, the co-accused Deepak Kumar and Bhaiya Lal Rai sold their shares of land of one katha each to different persons and only one katha land of the informant remained. However, the co-accused Deepak Kumar and Bhaiya Lal Rai also sold the share of land of the informant in favour of the petitioner no. 1 under a conspiracy by impersonating the informant and forging the signature of the informant. The informant further alleged that the petitioners and the two other co-accused persons and one Ram Pukar Rai misappropriated the money so received after selling the land of the informant.

It has been submitted on behalf of the petitioners that the piece of land measuring one katha was purchased on 10.04.1995 through registered sale deed by the petitioner no.1 on which all three persons, who purchased three katha of land jointly made their signatures. Thereafter, the land was mutated in favour of petitioner no.1 vide Mutation Case No. 971 of 1995-96 and the



petitioners started paying the rent which has been up-to-date. The petitioners got electricity connection, ration card and other official documents after construction of a *pakka* house on the said land in the year 1997 and since 1997 the petitioners are in peaceful possession over the said land. The land possession certificate also been issued in the year 1997 in favour of the petitioners. Learned counsel further submits that on the registered sale deed dated 10.04.1995, the informant Binod Prasad Yadav himself put his thumb impression and also put his signature. Learned counsel further submits that during all these years the informant never approached the Revenue Karmchari for paying the rent for the said land and never filed any objection against the mutation made in favour of the petitioner no. 1. All of sudden after 22 years of the registry of the plot, the informant filed the criminal case. But even then he did not file any case for cancellation of the sale deed or declaration of the sale deed as null and void. Learned counsel further submits that the petitioners are bona fide purchasers and they have already made payment to the informant in presence of co-accused Deepak Kumar and Bhaiya Lal Rai. Learned counsel further submits that though the FIR was registered in the year 2017, but the police has not filed the charge-sheet/final form against the accused persons till date. This also shows the falsity of the case of the informant against the petitioners. Moreover, from



the facts of the case it is very much apparent that the dispute is only in civil nature and it has been given the colour of criminal case. Thus, learned counsel submits that the quashing of the FIR is desirable in the interest of justice and the same be quashed.

Learned APP opposes the submission made on behalf of the petitioners submitting that the informant has made allegations based on the facts of the case and delayed registration of the FIR could not be a fact for consideration of the merits of the case.

Perused the records.

I have given my thoughtful consideration to the different aspects of the matter. Evidently the informant lodged the FIR after 22 years of the alleged occurrence. But he has not explained the circumstances which precluded him from filing the FIR after this inordinate delay. Then the improbability of the allegations and absurdities associated with it are writ large on the face of the record. The informant is denying executing any sale deed in favour of the petitioner no.1. But the informant kept mum for 22 years while the petitioners mutated the land in their favour, got the land possession certificate, constructed a house, got electricity connection and ration card on their new address. The informant even did not take any steps for availing remedies available to him under civil laws. Moreover, there is one more



thing which is in favour of the petitioner. The police has not been able to file any charge-sheet or final form/closure report in the case even after passage of five years.

Thus, having regard to the rival submissions and considering the facts and circumstances of the case discussed in preceding paragraph, it could be said that it is a clear cut case of abuse of process of law at the instance of the informant/respondent no.2 in this case and it is the absurdity of the facts and improbability of circumstances which compels this Court to reach the conclusion that there is no sufficient ground for proceeding against the petitioners and makes the case against them unsustainable.

Therefore, the present petition is allowed and the entire proceeding arising out of Muzaffarpur (Town) P.S. Case No. 222 of 2017 is hereby quashed against the petitioners and the petition stands disposed of in terms of the aforesaid order.

(Arun Kumar Jha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.11.2022
Transmission Date	10.11.2022

