

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54777 of 2021

Arising Out of PS. Case No.-1515 Year-2020 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

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1. Bachcha Pandey son of Late Ramsubhag Pandey Resident of Village - Rajapur, Police Station - Kateya, District - Gopalganj.
 2. Babuna Pandey Son of Bachcha Pandey Resident of Village - Rajapur, Police Station - Kateya, District - Gopalganj.
 3. Basir Ansari Son of Mohammad Kurais Ansari Resident of Village - Rajapur, Police Station - Kateya, District - Gopalganj.
 4. Muslim Ansari Son of Ees Mohammad Ansari Resident of Village - Rajapur, Police Station - Kateya, District - Gopalganj.
 5. Prabhunath Ram Son of Nandkishore Ram Resident of Village - Rajapur, Police Station - Kateya, District - Gopalganj.
 6. Amerika @ Amerika Yadav Son of Late Gudari Yadav Resident of Village - Rajapur, Police Station - Kateya, District - Gopalganj.
 7. Bhola @ Mustakim Ansari Son of Ees Mohammad Ansari Resident of Village - Rajapur, Police Station - Kateya, District - Gopalganj.
 8. Nasiruddin Ansari Son of Ees Mohammad Ansari Resident of Village - Rajapur, Police Station - Kateya, District - Gopalganj.
 9. Samsuddin Ansari Son of Ees Mohammad Ansari Resident of Village - Rajapur, Police Station - Kateya, District - Gopalganj.

... .. Petitioners

Versus

1. The State of Bihar
2. Upendra Pandey @ Kanhaiya Pandey Son of Late Paras Pandey Resident of Village - Rajapur, Police Station - Kateya, District - Gopalganj.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr.Setu Prateek, Advocate
For the Opposite Party/s : Mr.Raj Ballabh Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 26-04-2022 Heard counsel for the parties.

The petitioners herein have invoked Section 482 of
the Code of Criminal Procedure, challenging the order dated
23.3.2021 by which the learned Judicial Magistrate 1st Class,



Gopalganj issued sommon against them in Complaint Case No. 1515 of 2020.

The allegation in the compliant is that he is the owner of the land and further his grand-father had no issue and as such gifted his share of land to the wife of the complainant, Indu Devi for which “Jamabandi” was created.

Further the allegation is that the petitioner no.1 who is distantly related to the complainant had preferred Title Suit No. 169 of 1995 which was decreed in favour of the complainant on 29.9.2020 from the court of learned Sub Judge, Gopalganj and the appeal filed against the said decree was also rejected by the learned Fast Track Court, Gopalganj on 31.7.2017.

The complainant alleged that despite the aforesaid order in favour of him, the petitioner no.1 chose to execute the sale deed in favour of the petitioner nos. 3 to 5 and as such they criminally conspired against him. The learned court below took up the matter on 23.2.2021 and after going through the statement of the complainant as also the witnesses took cognizance against the petitioners herein under sections 423, 465 of the Indian Penal Code and issued summon which prompted them to prefer this appeal for quashing the order passed by the Judicial Magistrate 1st Class, Gopalganj.



This Court has gone through the different documents attached as Annexures to the quashing application and finds that the petitioners had full knowledge of land being in complete physical possession of the complainant and despite that they chose to execute the sale deed in favour of the petitioner nos. 3 to 5.

The learned court below after taking the statement on oath of the complainant and other witnesses have rightly taken cognizance against the petitioners herein and as such this Court does not find any infirmity in the order and the application for quashing is hereby rejected.

Any observation in this order shall in no way will be taken into account by the learned court below while proceeding in the case.

Before parting, I would would like to put on record the word of appreciation for Mr. Setu Prateek, learned counsel for the petitioner for the assistance he rendered to this Court.

This application is dismissed.

(Rajiv Roy, J)

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