

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57309 of 2021

Arising Out of PS. Case No.-431 Year-2019 Thana- SIWAN COMPLAINT CASE District-
Siwan

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1. SWAMINATH CHAUDHARI Son of Rajpati Chaudhari Resident of Village - Koyladewa Marwani, P.S. - Phulwariya, District - Gopalganj
 2. Swaminath Sah Son of Late Shivpujan Sah Resident of Village - Koyladewa Tola Srinagar, P.S. - Phulwariya, District - Gopalganj
 3. Amitabh Bhachchan Son of Srimukhdeo Rai Resident of Village - Karariya Thakurai, P.S. - Phulwariya, District - Gopalganj

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ankesh Sah Son of Late Phuleshar Sah Resident of Village - Karariya Thakurai, P.S. - Phulwariya, District - Gopalganj

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar, Advocate
For the Opposite Party/s	:	Mr. Mithlesh Kumar Khare, A.P.P.
For the Complainant	;	Mr. Braj Bhushan Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 29-08-2022 Heard learned counsel for the petitioners, the complainant and learned A.P.P. for the State.

Let the defect(s), if any, be removed within a period of four weeks.

The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 406 and 420 of the Indian Penal Code.

Learned counsel for the petitioners submits that petitioners are persons with clean antecedent.

The complainant alleges that these petitioners have got a sale deed executed with respect to a piece of land by Kapil



Sah. It is alleged that the land belongs to the father of the complainant on which the complainant has his dwelling house, trees etc. It is alleged that the said land came in the share of his father on account of change (Badlain).

Learned counsel for the petitioners submits that petitioners have been falsely implicated in the present case and petitioner no. 1 and 2 are purchasers of the land from Kapil Sah and petitioner no. 3 is a witness on the sale deed. Learned counsel further submits that Kapil Sah is own uncle of the complainant and the complainant has already filed a Title Suit No. 152 of 2019 with regard to the dispute relating to property and the said title suit is pending. Learned counsel next submits that prima facie the nature of the allegation as alleged in the FIR, it would manifest that the dispute is completely civil in nature and the law in this regard is well settled that criminal proceedings should not be resorted to for settling the civil dispute until and unless prima facie it appears that though the nature of dispute is civil but some criminal offence is made out. Learned counsel next submits that if the complainant is aggrieved by the action of Kapil Sah in executing the sale deed in favour of petitioner no. 1 and 2 then he has remedy available in law to get the sale deed cancelled. Learned counsel next



submits that the aforesaid case can also be brought to the notice of the learned Court where the Title Suit No. 152 of 2019 is pending.

Learned A.P.P. for the State and the complainant opposed the prayer for anticipatory bail of the petitioners but are not able to meet the submission of the learned counsel for the petitioners that a title suit is pending between the parties and the complainant has remedy available in law against the sale deed executed by his uncle in favour of the petitioners.

Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.5,000/- (Rupees Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Tr. No. 1585 of 2021 arising out of Complaint Case No. 431 of 2019, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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