

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12767 of 2016

Arising Out of PS. Case No.-862 Year-2012 Thana- PATNA COMPLAINT CASE District-
Patna

-
1. Anil Kumar Gupta Son of Late Anandi Prasad
 2. Manoranjan Kumar Gupta @ Manoranjan Prasad Gupta, Son of Late Anandi Prasad.
 3. Raj Kumar Gupta, Son of Late Anandi Prasad
 4. Ajit Pratap, Son of Late Umesh Kumar @ Buchhan Prasad All resident of Arya Samaj Road, Village- Bihta, P.O- Bihta, P.S.- Bihta, District- Patna, Bihar.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Chinta Devi, wife of Sita Ram Prasad. Resident of Arya Samaj Road, Village- Bihta, P.O- Bihta, P.S.- Bihta, District- Patna, Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shivendra Roy, Adv. Mr. Manoj Kumar
For the Opposite Party/s :		Mr. Dinu Kumar, Adv. Mr. Akshay Lal Pandit, App

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
CAV JUDGMENT

Date : 29 -11-2023

1. Petitioners have filed the present application under Section 482 Cr.P.C. for quashing the order of cognizance dated 16.02.2015 in Complaint Case No. 862(C) of 2012 under Sections 323, 504, 506 of the I.P.C. passed by learned J.M. 1st Class, Danapur.

2. During pendency of this application, the petitioner no. 3 died. The petitioner nos. 1 to 3 are own brothers and the petitioner no. 4 is the nephew.

3. The Opposite Party No. 2 namely, Chinta Devi filed Complaint Case No. 862 (C) of 2012 claiming herself to be the



Sevayat of Mahavir Mandir Trust and its properties situated at plot nos. 363, 364, 984, 11, 254, 256, 267 bearing Khata Nos. 184, 183 & 180 in Mauza- Bihta measuring an area of 4.32 Acres in the District of Patna. The petitioners, who are of the same locality having an evil eye on the said property in collusion with the State officials manufactured forged documents and started interfering with the title and possession of the complainant. The petitioners pressurized the Opposite Party No. 2 to sell half of the land or to part with Rs. 50 Lakhs. The complainant filed a petition under Section 144 Cr.P.C. After getting knowledge that 144 Cr.P.C. proceeding has been initiated, the petitioners on 07.08.2012 along with 10-15 unknown persons came with arms and ammunitions at the temple and started abusing the complainant, torn her clothes in order to outrage her modesty. They threatened the Opposite Party No. 2 and forcibly took her signature on a red paper.

4. Learned counsel for the petitioners argued that as per the allegation made in the complaint petition, the petitioners and others interfered with title and possession over the land in question and in course of which the occurrence has occurred on 07-08-2012. The allegations are completely unfounded and baseless inasmuch as the Opposite Party No. 2 is having false



claim over the land in question. Contrary to the claim of the complainant / Opposite Party No. 2, title and possession of the land in question vests with the petitioners and not with the complainant. The petitioners relied upon the documents annexed with the 2nd supplementary affidavit in support of their claim which are judgment and decree passed by learned Additional Sub Judge, Patna in Title Mortgage Suit No. 34 of 1940 wherein the mortgage suit was decreed in favour of the predecessors- in- interest of the petitioners. The order sheet of the Execution Case No. 16 of 1944 showing execution and delivery of possession of entire land, copy of “hukumnama” executed in the year 1955 issued by late Chhathu Lal Sao in favour of the petitioner no. 1 by which the land of 5 Acres situated at different plots of Tauzi No. 15661, Mauza- Bihta was settled in favour of the petitioner no. 1. Learned counsel further argued that the land in question has remained in title and possession of the petitioners.

5. After abolition of “zamindari”, return was filed by the outgoing “zamindar” in favour of the petitioner no. 1 for the settled land of 5 Acres. The name of the petitioner no. 1 is entered in the revenue records and rent receipts of the land are being issued by the Government of Bihar in favour of the



petitioner no. 1, therefore, the land in question is the “raiya” land of the petitioner no. 1 since 1955.

6. An area of 3.05 Acres out of the said land of 5 Acres was acquired by the Government of Bihar in the year 1976 under the provisions of Land Acquisition Act, 1894 which was contested by the petitioner no. 1 up till the Hon’ble Supreme court in which order dated 14.02.2012 was passed by the Supreme Court directing handing over vacant possession of the land to the petitioner no. 1. On 29.07.2012 in compliance of the order of the Hon’ble Supreme Court the concerned land admeasuring 3.05 Acres situated in Mauza- Bihta, Khata No. 184, Survey Plot Nos. 262, 263, 264, 265 and 256 was handed over to petitioner no. 1 as would be apparent from the letter dated 27.07.2012 issued by District Land Acquisition Officer, Patna to the petitioner no. 1.

7. Accordingly, learned counsel for the petitioners submits that the aforesaid documents as referred to hereinabove are public documents and documents of unimpeachable character and thus this court can look into the same while exercising jurisdiction under Section 482 Cr.P.C. He relied upon the judgment of the Hon’ble Supreme Court reported in (2011) 3 SCC 351 Hashendra Kumar *versus* Rebatilata Koley & Ors. The



aforesaid documents clearly falsify the claim of the Opposite Party No. 2 regarding title and possession over the land. No supporting documents have been produced by the complainant to support her claim regarding title and possession over the land. The complainant / Opposite Party No. 2 also did not file any rejoinder to the documents filed by the petitioners in support of their claim over the land in question.

8. Thus, submission is that the very foundation of the complaint regarding the ownership and possession of the complainant over the land and the alleged interference by the petitioners is baseless and shakes the credibility and trustworthiness of the allegations made in the complaint. The fact of the matter is that the land in question is the property of the petitioners and their predecessors-in- interest since 1948 and all documents clearly support the ownership of the petitioners. After the order of Hon'ble Supreme Court and the land having been returned by the District Land Acquisition Officer, Patna on 29.07.2012 the petitioners were trying to construct boundary wall over the land in question so as to protect it from any encroachment and in that endeavour the petitioners were obstructed by the sons and other relatives of the opposite party no. 2 / complainant for which an F.I.R. bearing Bihta P.S. Case



No. 231 of 2012 dated 06.08.2012 was lodged by the petitioner no. 1 against the sons and other relatives of the complainant. It is only thereafter the Opposite Party No. 2 has filed the present complaint on 08.08.2012 making false allegation as a counter blast to the F.I.R. dated 06-08-2012 lodged by the petitioner no. 1.

9. Learned counsel further argued that aforesaid aspects when considered together clearly brings the present case within the ambit of 7th category of the parameters for quashing of criminal case as laid down in the case of State of Haryana vs Bhajan Lal reported in 1992 Supp (1) SCC 335 by the Hon'ble Supreme Court which have been followed in number of judgments and most recently in AIR 2023 SC 2999 Gulam Mustafa vs The State of Karnataka & others.

10. The complainant had filed a modification application before the Hon'ble Supreme Court for modification of the order as contained in Annexure- 2 of the quashing application. The said modification application was dismissed as withdrawn. The complainant had also filed Title Suit No. 195 of 2013 before the court of learned Sub Judge, Danapur with the prayer for declaration of "Hukumnama" dated 09-11-1955 in favour of the petitioner no. 1 as ante-dated and fabricated



documents. The petitioner no. 1 filed his written statement in the said suit and also a petition for rejecting the plaint which was kept pending. Accordingly, the petitioner no. 1 approached this court by filing Civil Miscellaneous Case No. 321 of 2022 in which further proceedings of the suit has been stayed. The complainant also filed an application for initiating proceedings under Section 144 Cr.P.C. which was rejected by the S.D.O., Danapur vide his order dated 06-11-2012 passed in Case No. 5(M) / 2012 by recording that possession of the land in question was given to the petitioner no. 1 on 29-07-2012 in compliance of the order of the Hon'ble Supreme Court. The complainant is trying all tricks and tactics by filing false and frivolous cases of civil and criminal nature just to harass the petitioners and to extract some unlawful gains for herself. The present complaint is also an endeavour in that direction and therefore submission is that the allegations made in the complaint have to be read with all adjoining and connected facts in order to read between the lines and ascertain the true nature of false and frivolous case malafidely filed by the complainant.

11. It is further submitted that the complainant almost on the basis of same accusations as stated in the complaint had registered an F.I.R. bearing Bihta P.S. Case No. 289 / 2012 dated



09.09.2012 and after investigating the allegations of the F.I.R. the police has not found truth in the substantive allegations levelled by the complainant in the F.I.R. and had submitted final form on 30.10.2012 only under Section 504 of the I.P.C. which is a non- cognizable offence.

12. On the other hand, learned counsel for the Opposite Party No. 2 argued that upon reading of the complaint offence under which cognizance has been taken by the learned Magistrate is made out. The documents which have been placed herein before this court by the petitioners were not before the learned Magistrate and hence the Magistrate took cognizance on the basis of the materials available before him. The Magistrate after having recorded the submissions of the complainant on solemn affirmation supported by three witnesses has taken cognizance on the basis of the materials available before him. At last, learned counsel submits that persons approaching High Court under Article 226 of the Constitution of India or under Section 482 Cr.P.C. must come with clean hands. In the present case the petitioners have concealed the fact and have not brought on record the F.I.R. bearing Bihta P.S. Case No. 284 of 2012 which was filed by petitioner no. 1 / Anil Kumar Gupta in which charge sheet has been filed and cognizance has been



taken against the accused persons.

13. I have heard learned counsel for the parties and have gone through the materials available on record. From the unimpeachable documents produced by the petitioners before this court it transpires that the land in question was handed over to the petitioners pursuant to the order passed by the Hon'ble Supreme Court in SLP (C) No. 11195 of 2009. Just two days prior to lodging of the complaint by the complainant / opposite party no. 2, an F.I.R. was lodged by the petitioner no. 1 bearing Bihta P.S. Case No. 231 of 2012 on 06/08/2012 against the opposite party no. 2 and her family members alleging that while the petitioners were constructing boundary in order to secure their land, the accused persons created obstruction and tried to assault the petitioners. After lodging of the F.I.R. by the petitioners on 06-08-2012 the present complaint has been filed on 08/08/2012. A Title Suit has also been filed by the complainant / Opposite Party No. 2 regarding the subject land. A modification application filed by the Opposite Party No. 2 before the Hon'ble Supreme Court for modifying the order directing the State Government to hand over the possession of subject acquired land in favour of the petitioner no. 1 has also been dismissed as withdrawn by the Hon'ble Supreme Court on



18-03-2013 in Civil Appeal No. 2082 of 2012.

14. Upon objective consideration of the materials produced before this court, the inescapable conclusion is that there is *bona fide* land dispute between the parties for which Title Suit has been filed by the complainant. The Hon'ble Supreme Court in Gulam Mustafa vs The State of Karnataka & Ors. reported in AIR 2023 SC 2999 has observed that more often than not, disputes relating to land and / or money are given the colour of criminality, only for the purposes of exerting extra-judicial pressure on the party concerned, which, is nothing but abuse of the process of the court. In the present case both the parties are claiming their title and possession over the land in question whereas the petitioners have produced the decree passed in the Mortgage Suit No. 34 / 1940 and delivery of possession in Execution Case No. 16 of 1944 of the subject land in favour of their predecessors- in- interest wherein the predecessors- in- interest of the opposite party no. 2 were defendants and judgment debtors. The opposite party no. 2 / complainant is not in a position to impeach the documents produced by the petitioners. In Salib @ Shalu @ Salim versus State of U.P. & Ors. the Hon'ble Supreme Court has held that the court while dealing with frivolous or vexatious proceedings



owes the duty to look into many other attending circumstances and if needed, then with due care and circumspection try to read in between the lines. The court may take into account the overall circumstances leading to the initiation / registration of the case as well as the materials collected in the course of investigation.

15. Upon careful consideration of entire facts and materials along with unimpeachable documents produced by the petitioners and the discussion held hereinabove on law and facts, I am of the opinion that the present complaint has been filed with oblique motive by giving criminal colour to a civil dispute between the parties. As such, allowing continuation of the criminal prosecution against the petitioners shall amount to abuse of the process of law.

16. In the result, entire prosecution and the order of cognizance dated 16.02.2015 passed in Complaint Case No. 862(c) of 2012 against the petitioners are hereby quashed.

praful/-AFR

(Anil Kumar Sinha, J)

AFR/NAFR	AFR
CAV DATE	20-09-2023
Uploading Date	30-11-2023
Transmission Date	30-11-2023

