

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21467 of 2023

Arising Out of PS. Case No.-343 Year-2020 Thana- SARAN COMPLAINT CASE District-
Saran

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YADWESH KUMAR Son of Late Devnath Rai @ Late Deonath Rai R/V-
Deochandra Sansar, Mubarak Lane, Mahamood chowk, P.S- Chapra Town,
Dist- Saran at Chapra

... .. Petitioner/s

Versus

1. The State of Bihar
2. Wakil Prasad Yadav Son of Late Dharamdeo Prasad Yadav R/V- Sadhpur,
PS- Garkha, Dist- Saran at Chapra

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Sandip Kumar Gautam, Adv
For the Informant	:	Mr. Dewendra Narayan Singh, Adv
		Mr. Ashutosh Kumar Singh, Adv
For the State	:	Mr.Ram Priya Sharan Singh, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 16-10-2023

Heard learned counsel for the petitioner, learned counsel

for the informant and learned counsel for the State.

2. The petitioner has put to challenge in the present application filed under section 482 of the CrPC the order taking cognizance dated 26.02.2020 passed by the learned Additional Chief Judicial Magistrate-VI, Saran at Chapra in connection with Complaint Case No. 343 of 2020, by which learned ACJM-V has taken cognizance of the offences punishable under Sections 323, 420, 467, 468, 471 and 34 of the Indian Penal Code against this petitioner.

3. It is the allegation made in the complaint petition of the Opposite Party No. 2 that the father of accused no. 1 Banaras Singh executed sale deed in favour of his mother Dhandai Devi in the year 1949 with respect to land pertaining to Khata No. 84 , Plot No. 1478 admeasuring 2 Bigha, 12 Katha 14 Dhoor, Khata No. 84, Plot No. 1514 admeasuring 1 Bigha 16 Katha 17 Dhoor, and Khata No. 85 Plot No. 1518 admeasuring 2 katha 3 Dhoor. After the total area of the land said to have been transferred by Banaras Singh was thus 4 Bigha 11 Katha and 14 Dhoor.

4. It is the case of opposite party no. 2 that after execution of sale deed, Dhandai Devi had come in possession and thereafter the land was in possession of the complainant.

5. The gist of allegation in the complaint petition that on 20.01.2020 accused Puran Singh declared that he had sold 7 Katha land of Khata No. 84 Plot No. 1478 at Kamalpur Petrol Pump. It is the case of the complainant that the land which belonged to the complainant was thus fraudulently purchased by this petitioner from accused Puran Singh. Nawaji Ali also got executed sale deed in his favour by Puran Singh.

6. On close reading of the complaint petition, leaves no room for doubt, that it pure and simple civil dispute which has

been given the colour of criminal case. In any event, in my opinion, no offence punishable under sections 323, 420, 467, 468, 471 and 34 of the Indian Penal Code is made out against this petitioner. The filing of the complaint case as against this petitioner, in the court’s opinion, is an abuse of the process of the court. The complaint petition to the extent the same relates to the petitioner stands quashed.

7. This application is, accordingly, allowed.

(Chakradhari Sharan Singh, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.10.2023
Transmission Date	19.10.2023