

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55923 of 2017

Arising Out of PS. Case No.-155 Year-2016 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Bindeshwar Rai Son of Late Ram Lagan Rai
 2. Ramjanam Rai Son of Bindeshwar Rai Both are Residents of Village-
Pachhiyari Malahi, P.S.- Barh, District- Patna.
 3. Hari Rai Son of Late Prabhu Rai, Resident of Village- Laharia Tola, P.S.-
Athmalgola, District- Patna.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Ashok Kumar son of Late Lala Prasad, Resident of Village- Athmalgola
Bazar, P.S.- Athmalgola, District- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : None

For the Opposite Party/s : Sri Jharkhandi Upadhyay

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL ORDER

5 23-02-2023 None appears for the petitioner.

This quashing application is being filed to quash the order dated 05.07.2017 passed in criminal Revision No. 187 of 2017 by the learned Additional Sessions Judge, IInd, Barh, Patna whereby and whereunder the learned Additional Sessions Judge, IInd, Barh, Patna has directed the learned S.D.J.M. Barh, Patna to take cognizance under section 102(B) of the Indian Penal Code only without assigning any substantial punishable offence of the Indian Penal Code by setting aside the dismissal order of the complaining under section 203 of the Cr. P.C. dated 22.02.2017 passed in Complaint Case No. 155(c)/2016 by



learned S.D.J.M., Barh, Patna.

The prosecution story in short is that the great grandfather of the complainant had six brothers and the Karta of the family was Bansi Lal. In case of joint family sixty-four decimal land in Khata No. 353, Khasra No. 252, Thana No. 104, Mauza-Kalyanpur was purchased. During the course of partition, the said land was lying in the share of younger brother of Late Bansi Lal Namely Late Tauzi Lal but in Survey, the name of the purchaser was written namely Bansi Lal and due to this reason, the name of late Bansi Lal was retained and taking advantage the same, Bansi Lal prepared a Bazidava document and accepted the partition and transferred the land in the name of Tauzi Lal and from that very date, his ancestors are enjoying the property. Thereafter zamindari ends and according to the return filed by former Zamindar, the name of grandfather of the opposite party No. 2 was added on land revenue paper and thereafter the land rent was also being paid and rent receipt is also obtained. It has further been alleged that despite knowing entire facts all the accused persons disturbed the complainant disturbed the possession of the petitioner on 15.04.2015 and 08.05.2015, the accused No. 2, 3 4 and 5 have sold the property to accused No. 5, 6 and 7 and in collusion of ownership wrong



information and wrong fact even wrong address has purposely been mentioned. Thereafter, the petitioner along with relatives tried to sort out the problem but due to dishonest eye, the accused persons have not supported. It is further alleged that land in question was mortgaged by a written document and just after it has also been taken back after payment of money from the document. Accused persons are in conspiracy with each other and forged document was created just with a view grab the property of the petitioner. Thereafter, S.A. of complainant and evidence of witnesses under Section 202 of the Cr. P.C. was filed. The learned court has dismissed the complaint under Section 203 Cr. P.C. in the interest of justice and passed the impugned order against which the instant revision application has been filed.

From reading the materials available on record, it appears that *prima facie* offence is made out.

In these circumstances, this application is dismissed.

(Sandeep Kumar, J)

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