

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7933 of 2016

Arising Out of PS. Case No.-150 Year-2013 Thana- UDAKISHUNGANJ District-
Madhepura

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Maheshwar Paswan, Son of Late Dashrath Paswan, Resident of village-
Ghosai Chirori, P.S.- Chousa, District-Madhepura

... .. Petitioner/s

Versus

1. State Of Bihar.
2. Sadanand Sharma, son of Late Dev Narayan Sharma, resident of village
-Milki Bihpur, P.S.- Bihpur, District- Bhagalpur.
3. Parmanand Sharma, S/o Late Dev Narayan Sharma, resident of village
-Bihpur Milki, P.S.- Bihpur, District- Bhagalpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner	:	Mr. Shailendra Kumar Singh, Advocate
For the State	:	Mr. J. Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 20-09-2023 1. Heard learned counsel for the petitioner and
learned Additional Public Prosecutor for the State.

2. The present application has been filed seeking
quashing of the order taking cognizance dated 17.06.2015
passed by the learned S.D.J.M. Uda – Kishunganj, Madhepura,
in connection with Uda – Kishunganj P.S. Case No. 150 of
2013, whereby cognizance has been taken under Sections 420,
467, 468, 120B and 34 of the Indian Penal Code against the
petitioner.

3. The complainant has alleged that lands falling in
his share have been sold by his father and brother, who are also



accused persons, by impersonating him at the time of execution of the deeds. The petitioner is said to be the purchaser of the lands.

4. Learned counsel for the petitioner submits that the complainant has arrayed his own father and brother as accused persons. Perusal of the complaint petition shows that the complainant is claiming to be owner of the land which has been sold by his father and brother in excess of their share. It is also stated in the complaint that the complainant had filed an objection before the Revenue Authority requesting them not to allow mutation of the lands, which also has been rejected. Learned counsel for the petitioner has further submitted that impersonation, if at all, could only be attributed to the other accused persons who, as per allegation in the complaint petition, are the complainant's father and brother. The petitioner is a *bona fide* purchaser who has purchased the lands after paying due consideration. The land was executed in his favour on 11.03.2013 and thereafter also mutated in his favour and a *Jamabandi* has also been created, which fact is admitted even as per the complaint petition. It is, therefore, submitted that the claim of the complainant rests on his alleged claim that the lands which were conveyed by the deed in question, were



falling in his share, or not. The nature of allegations predominantly constitute a civil dispute between the parties. Resort to criminal proceedings in the circumstances is nothing but an abuse of the process of the court. That apart, allegations, even taken at their face value, would not constitute any offence against the petitioner.

5. Learned APP submits that as per the allegations made in the complaint, the lands have been sold in collusion with the petitioner.

6. This court had earlier issued notices to the Opposite Party Nos. 2 and 3. They have appeared in these proceedings long back in the year 2017 itself. When the matter was taken up on 13.09.2023, noticing the fact that the learned counsel representing Opposite Party Nos. 2 and 3 was not appearing, the matter was adjourned to be taken up today. Today also when the matter is taken up, there is no representation on behalf of Opposite Party Nos. 2 and 3. The further proceedings had been stayed earlier as per order dated 06.05.2016.

7. Learned counsel for the petitioner has also placed reliance on decision of the Hon'ble Apex Court in the case of *Vineet Bhatt versus State of Uttar Pradesh and Another* passed in *CRL.A. 1469/11*.



8. In the said case, the petitioner therein before the Hon'ble Apex Court was a purchaser of the lands facing similar accusation. The High Court in the said case had refused to interfere in the matter and the order of the High Court was set aside by the Hon'ble Apex Court noticing that the allegations predominantly constituted a civil dispute invoking an issue of title between the parties.

9. This court would find the instant petitioner's case to be covered by decision of the Hon'ble Apex Court in the case of *Vineet Bhatt (supra)*.

10. In view of the above discussions and having regard to the settled parameters for exercise of jurisdiction under Section 482 Cr.P.C. as per decision in the case of *State of Haryana and Ors. versus Bhajan Lal and Ors.* reported in *(1992) Supp (1) SCC 335*, as reiterated by the Hon'ble Apex Court in the recent case of *Abhishek versus State of Madhya Pradesh* reported in *2023 SCC OnLine SC 1083*, this court would quash the order taking cognizance dated 17.06.2015 passed by the learned S.D.J.M., Uda – Kishunganj, Madhepura in connection with Uda – Kishunganj P.S. Case No. 150 of 2013, as also the entire proceedings arising out of the said case



11. Present quashing application is allowed.

(Madhuresh Prasad, J)

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