

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12850 of 2015

Arising Out of PS. Case No.-247 Year-2009 Thana- SONEPUR District- Saran

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1. Braj Kishore Singh Son of Late Shivshankar Singh
 2. Ramanuj Singh Son of Late Raghunath Singh Resident of Village Gangajal, Barka Baghicha Post office, Barka Pahleza, Police station Sonepur, District saran

... .. Petitioner/s

Versus

1. State Of Bihar
2. Shyam lal Singh Son ofn Late Sitaram Singh resident of village- Gangajal near High School Police Station Sonepur , District Saran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Najmul Hoda,Advocate
For the Opposite Party/s	:	Mr.P.K.Chaurasia, APP
For the Informant	:	Mr. Dhanendra Chaubey, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

9 16-02-2023 Heard Mr. Najmul Hoda, learned counsel for the petitioners and Mr. Dhananjay Chaubey, learned counsel for the informant as also learned APP for the State.

The petitioner challenged the order dated 29.09.2011 passed by the learned Judicial Magistrate, Ist Class, Chapra in Sonepur P.S. Case No. 247 of 2009 (GR No. 3340 of 2009) by which cognizance has been taken under Section 465 of the Indian Penal Code.

As per the prosecution story, the plot no. 3028 in village Gangajal is/was recorded in the name of Brahmdeo Singh, grandfather of the complainant and other co-sharer.



Subsequently, the Indian Railways chose to acquire the said land and compensation were awarded to the land holders. However, as the informant failed to get any compensation, he inquired into the matter and found that the accused persons-petitioners herein have taken the amount despite the fact that the land belongs to the informant. Accordingly, the FIR was lodged.

The police investigated the matter and submitted final form on 20.01.2021 stating that the case was not found true.

The matter went up to the learned Judicial Magistrate 1st Class, Saran at Chapra and having gone through the complaint petition (subsequently registered as FIR) as also the solemn affirmation of the complainant available on record and the other witnesses, came to the conclusion that there are sufficient grounds for further proceeding in the matter and *prima facie* under Section 465 of the Indian Penal Code made out against the petitioner and accordingly summons issued.

Aggrieved, the present petition.

Learned counsel for the petitioners submit that admittedly, they being the co-sharer of the land, they received notices from the Indian Railways and as such, went and received the amount. The further submission is that after the FIR was lodged, the police found the case to be untrue and thus



learned Magistrate has exceeded her jurisdiction by taking cognizance under Section 465 of the Cr.P.C.

It is his further submission that it is purely a civil dispute relating to the compensation amount of the land and as such, no criminal case should have been lodged and cognizance could have been taken. The further submission is that after receiving the compensation, he distributed it amongst all the co-sharers.

Per contra, learned counsel for the informant submits that contrary to the submissions put forward by the learned counsel for the petitioner, actually the land belongs to the informant/complainant family. However, when the notice was received by the petitioners herein (petitioner no. 1), the natural corollary should have been to either inform the informant and/or the Railways Authorities that the land belongs to him and not the petitioners. However, he went ahead and received the compensation which clearly shows his criminal intent.

Having gone through the rival submissions as also the petition filed by the petitioners, a perusal of paragraph 5 speaks everything which read as follows:

“5. That, the notice was issued to the petitioner no. 1 in the land Acquisition case and only on the basis of that compensation was



received by the petitioner no. 1.”

Further, from the entire petition, this Court finds that the petitioners have carefully chosen not to come out with a categorical statement that the land belonged to him and naturally. he went ahead and received the compensation. In that background the case preferred by the informant/complainant alleging criminal intent of the petitioners in receiving the compensation amount of the land from the Indian Railways which actually belongs to the informant/complainant is reflected.

Taking into account all the aforesaid facts, certainly this is not a fit case for interfering with the order dated 29.09.2011 passed by learned Judicial Magistrate, Ist Class, Chapra in Sonapur P.S. Case No. 247 of 2009 (G.R. No. 3340 of 2009).

The petition lacks merit and is accordingly, dismissed.

(Rajiv Roy, J)

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