

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.37429 of 2017**

Arising Out of PS. Case No.-2764 Year-2013 Thana- PATNA COMPLAINT CASE District-  
Patna

=====

Dr. Sita Ram Singh son of Late Ramnath Singh, Resident of Village-  
Barahiya, P.S. P.O.- Barahiya, District- Munger.

... .. Petitioner/s

Versus

1. State of Bihar
2. M/s Bharti Airtel Limited, Registered office at Bharti Crescent, 1- Nelson Mandela Road, Vasant Kun son of Bhudeo Jha presently working as Assistant Manager- Legal, Bihar and Jharkhand Circle.

... .. Opposite Party/s

=====

**Appearance :**

For the Petitioner/s : Mr.Archana Sinha @ Archana Shahi  
For the Opposite Party/s : Mr.Sri Uday Pratap Singh

=====

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR  
PANDEY**

ORAL ORDER

- 3      19-01-2023                      Heard the learned counsel for the petitioner. None appears on behalf of the opposite party no.2, despite repeated calls.

The present application has been filed for quashing the order of cognizance passed by Smt. Ritu Kumari, Judicial Magistrate, 1<sup>st</sup> Class, Patna in Complaint Case No. 2764 (C) of 2013/Case No.21704/2014, whereby cognizance has been taken under Sections 418 and 403/34 of the Indian Penal Code.

The brief facts of the case are that the complainant- M/s Bharti Airtel Limited lodged Complaint Case No. 2764 (C) of 2013 with allegation that co-accused Ram Jatan Rai executed



a sale deed in favour of the complainant on the basis of power of attorney executed by the petitioner. Later on, the petitioner sent notice to the Company-complainant that he never executed the power of attorney in favour of co-accused Ram Jatan Rai and Mr. Rai sold the land after fabricating that power of attorney.

The learned counsel for the petitioner has submitted that co-accused Ram Jatan Rai, on the basis of forged power of attorney, executed the sale deed in favour of the complainant. The petitioner filed Title Suit No. 96 of 2008 for cancellation of that power of attorney, which was decreed in favour of the petitioner and the power of attorney was cancelled, vide judgment and order dated 05.06.2010 passed by the learned 3<sup>rd</sup> Sub-ordinate Judge, Danapur. Co-accused Ram Jatan Rai preferred first appeal and co-accused Jai Shankar Prasad also filed a separate first appeal and both the appeals were dismissed by the High Court, vide order dated 13.08.2013. Co-accused Ram Jatan Rai preferred SLP (Civil) Appeal No.39178/2013 before Hon'ble Supreme Court, and vide order dated 24.01.2014, the Supreme Court found prima facie that co-accused Ram Jatan Rai had committed some illegality. Despite the fact the learned Judicial Magistrate has taken cognizance



even against the petitioner along with other co-accused persons.  
The learned counsel has also submitted that the complainant-  
M/s Bharti Airtel Limited has already filed a money suit against  
the accused persons.

The documents filed with the records itself show that  
the alleged power of attorney has been cancelled and the  
Hon'ble Supreme Court found co-accused Ram Jatan Rai prima  
facie accused of commission of illegality.

The cognizance against the petitioner appears nothing  
but abuse of the process of the court. Accordingly, the petition  
is allowed and the cognizance order only in respect of the  
petitioner is quashed.

**(Nawneet Kumar Pandey, J)**

HR/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

