

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18508 of 2016

Arising Out of PS. Case No.-1005 Year-2012 Thana- BUXAR COMPLAINT CASE District-
Buxar

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Ramun Ram Son of Late Jangali Ram, resident of village- Budhan, Purwa
Sindicate, Buxar, P.S.- Buxar Town, District- Buxar

... .. Petitioner/s

Versus

1. State Of Bihar
 2. Ram Chandra Sharma, son of Late Sheetal Sharma, resident of village-
Budhan Purwa Sindicate, Buxar, P.S.- Buxar Town, District- Buxar
- Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bachan Jee Ojha, Advocate
For the Opposite Party/s : Mrs. Nirmala Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

4 13-09-2023 Heard learned Counsel for the petitioner and the

State although learned Counsel for the opposite party no. 2 is

not present.

2. The present petition has been preferred for
quashing of the order dated 28.05.2015 passed in Case No.
1005(c) of 2012 (Tr. No. 1287 of 2015) by learned S.D.J.M.,
Buxar whereby and whereunder the learned Court below took
cognizance under sections 504, 506 and 468 of the Indian Penal
Code.

3. The case of the petitioner is/are as follows:-

4. The petitioner is a retired person aged about more
than 65 years having retired as Panchayat Raj Officer.

5. The complainant filed the present case when a
notice in a Title Suit No. 317 of 2012 for specific performance
of contract was received on 21.03.2013.



6. The complainant has accepted in the complaint that earlier in the year 1990 he has already sold two kathas of land to the petitioner which is in possession of the petitioner.

7. The complainant has executed two agreements (*Mahadnama*) on 12.08.2011 and 26.12.2011 for selling his land in the name of petitioner after receiving a handsome amount.

8. However, when the complainant did not execute the sale deed, the petitioner filed two Title Suits vide T.S. No. 317 of 2012 and T.S. No. 93 of 2012 before the learned Civil Judge, Buxar in which the notices were issued to the complainant.

9. That one of the witness, Shambhu Sharma in his deposition clearly deposed before learned Court that the complainant has signed before him on the Mahadnama.

10. On 01.08.2016, the earlier bench had issued notice to the opposite party no. 2 and the further proceeding was stayed.

11. Mr. Anil Kumar Singh, learned Counsel for the opposite party no. 2 appeared on 29.09.2016 and sought adjournment.

12. Seven years later, when the case has been taken up, no counter affidavits is on record.

13. It is the case of the petitioner is that a bare perusal



of Annexure 2 would show that it has signature of the opposite party no. 2. It is his further submission is that one of the witness has stated on oath before the Court (Annexure 3 to the petition) that the opposite party no. 2 had signed a “*Mahadnama*” in his presence.

14. As stated above, the opposite party no. 2 despite having appeared in 2016 did not file any reply and today on call, no one has appeared to represent his case.

15. In view of the facts stated above, the presence of the signature of the opposite party no. 2 on the documents (Annexure 2 to the petition) as also the deposition of one of the witness that he put in his signature on the said “*Mahadnama*”, this Court is convinced that the proceeding that is going against the petitioner needs interference.

16. The order dated 28.05.2015 by which the cognizance has been taken in Case No. 1005(c) of 2012 (Tr. No. 1287 of 2015) so far as the petitioner is concerned, stands quashed.

17. The Cr. Misc. No. 18508 of 2016 is disposed of.

(Rajiv Roy, J)

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