

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42514 of 2015

Arising Out of PS. Case No.-519 Year-2013 Thana- PATNA COMPLAINT CASE District-
Patna

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Anil Kumar Choubey S/o Sri Pyare Lal Choubey Resident of Village and P.O. Machhargawan Bajar, P.S. Jogapatti, District West Champaran, presently posted as Circle Officer, Daniawan, P.S. Daniawan, District Patna.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Kumar Prabhakar S/o Sri Brijnandan Prasad Singh Resident of Village Mohammadpur, P.O. Sabnima, P.S. Bakhtiarpur, District Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Hemant Kumar, Advocate
For the State	:	Mr.M.K.Nirala, APP
For the Opposite Party	:	Mr. Anil Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 28-03-2023 Heard learned counsel for the petitioner and the State as also the complainant.

The present petition has been preferred for quashing of the order dated 25.03.2014 in C.R. No. 519 (C)/2013 passed by learned Judicial Magistrate-Ist Class, Barh by which summons against the petitioner under section 420 of the Indian Penal Code was issued.

As per the prosecution story, the complainant in his complaint petition stated that the complainant has a piece of land in Village-Nayatola, Madhopur, P.S.- Bakhtiarpur, District - Patna under Khata no.- 370, R.S. Plot no.- 173 measuring an



area of 4 and 1/2 Decimal in which brothers also have their shares and the same is coming in his possession since 1948. The '*jambandi*' of aforesaid land was running in the name of complaint and his brothers.

Further alleged in the complaint petition is that since 1962, he was paying rent to the State of Bihar and receiving rent receipts. Further, the father of the complainant had executed a deed of sale in favour of '*Arya Samaj*' with regard to 9 '*dhurs*' of the aforesaid land.

The complaint petition further alleges that one Usha Devi W/o Ravi Chand Yadav resident of Naya Tola, Madhopur Ward no.15, Bakhtiarpur, Patna got a fake and fabricated deed with regard to the aforesaid land and on that strength preferred application before the petitioner (Circle Officer) for mutation of her name and the petitioner on flouting the norms of law being in league with Usha Devi reluctant to mutate her name but the '*Halka Karmchari*' and C.I. concerned rightly submitted their reports that mutation in the name of Usha Devi cannot be done. However, the petitioner (Circle Officer) under his vested interest passed mutation order in favour of Usha Devi. Accordingly, the case.

It has been contended by the learned counsel for the



petitioner that the matter relates to Mutation Case No. 48 of 2012-13 which was pending before the petitioner who was serving as Circle Officer, Bakhtiarpur and in discharge of his duty, he passed the order of mutation in favour of Usha Devi on 30.06.2012.

Aggrieved, the complainant moved before the learned L.R.D.C., Barh vide Mutation Appeal No. 10 of 2012-13 which was dismissed on 17.06.2013.

It was only thereafter that the complaint was preferred on 10.07.2013 and in that backdrop, when he has performed his duty as Circle Officer, Bakhtiarpur, without taking necessary sanction under section 197 of the Cr.P.C., the learned Court ought not have move ahead and taken cognizance under section 420 of the Indian Penal Code on 25.03.2014.

In this case, notices were issued by a bench of this Court on 13.11.2017.

On 28.02.2023 upon call, no one appeared from either sides. There is no counter affidavit also in the matter.

Today on call, it has been informed by the learned counsel for the complainant that despite his attempt, no instruction was forthcoming from the complainant.

Having gone through the facts of the case, as narrated



above as also the fact that the petitioner performed his duty in his official capacity as Circle Officer, Bakhtiarpur and an order passed by him was affirmed by the learned L.R.D.C., Barh and subsequent thereto, the present complaint was filed in July, 2013; in the absence of proper sanction, as stated above, the cognizance order dated 25.03.2014 in C.R. No. 519 (C)/2013 passed by learned Judicial Magistrate-Ist Class, Barh by which summons issued against the petitioner under section 420 of the Indian Penal Code has to be interfered with. It is accordingly quashed.

The petition preferred under section 482 of the Code of Criminal Procedure stands allowed.

(Rajiv Roy, J)

Jagdish/Neha/-

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