

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57079 of 2015

Arising Out of PS. Case No.-1691 Year-2012 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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Yogendra Thakur son of Late Bisheshwar Thakur, resident of village-
Bisanpur Paschim Ward No. 40, P.S. Town, District- Begusarai

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Dablu Tanti, son of Fakira Tanti, resident of Bishunpur West, Ward No. 40,
P.S.- Town, District- Begusarai

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr.Alok Kumar @ Alok Kr Shahi
For the Opposite Party/s :	Mr.J.N. Thakur App
For the Opposite Party No.2:	Mr.Chavesh Kumar, Adv

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 13-09-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. The present application has been filed seeking quashing of the order taking cognizance dated 21-08-2014 passed by the learned Judicial Magistrate, 1st Class, Begusarai in connection with Complaint case No. 1691 C/ 2012 whereby cognizance has been taken under Sections 420, 467 and 468 of the Indian Penal Code against the petitioner.

3. The learned counsel for the petitioner submits that the complaint has been filed with reference to claims made by the petitioner based on documents conferring title on the petitioner. Resort to this criminal proceedings is an abuse of the



process of the Court. The issue raised is predominantly civil in nature and the instant complaint has been initiated on extraneous considerations so as to coerce the petitioner. It is also submitted that as per allegations in the complaint if forged documents have been filed as evidence in the Court trying the suit, the proper remedy to the complainant was to invoke Section 340 Cr.P.C.

4. Section 340 Cr.P.C relied upon by the learned counsel for the petitioner reads as follows:

“340. Procedure in cases mentioned in Section 195.--(1) When, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interest of justice that an inquiry should be made into any offence referred to in clause(b) of sub-section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary,

(a) Record a finding to that effect;

(b) Make a complaint thereof in writing;

(c) Send it to a Magistrate of the first class having jurisdiction;

(d) Take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and

(e) Bind over any person to appear and give evidence before such Magistrate.

(2) The power of conferred on a Court by sub-section (1) in respect of an offence may, in any



case where that Court has neither made a complaint under sub-section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 195.

(3) A complaint made under this section shall be signed,

(a) Where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;

(b) In any other case, by the presiding officer of the Court or by such officer of the Court as the Court may authorize in writing in this behalf.

(4) In this section, "Court" has the same meaning as in Section 195."

5. Apart from the allegations being prima facie and predominantly civil in nature, this Court would find that petitioner's counsel has also fairly submitted that the petitioner would invoke Section 340 Cr.P.C in the concerned Court.

6. Continuance of the proceedings in complain case no. 1691C of 2012, therefore, would be futile and nothing but an abuse of the process of the Court.

7. Learned counsel for the Opposite Party No. 2 fairly submits that petitioner would be approaching the Court of concerned Sub-Judge at Begusarai, wherein Title Suit No. 314 of 2006 is pending, invoking Section 340 Cr.P.C.

8. In view of such submissions, the order taking cognizance dated 21.08.2014 as well as the entire proceedings arising out of complaint case no. 1691 C of 2012 stand quashed,



with liberty to the petitioner, as prayed for.

9. If such remedy is availed, it is needles to say,
Court would be required to proceed in accordance with law.

(Madhuresh Prasad, J)

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