

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66722 of 2022

Arising Out of PS. Case No.-535 Year-2020 Thana- PATNA COMPLAINT CASE District-
Patna

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1. RUPA KUMARI Wife of Ajay Kumar Resident of- Barkamore, P.O.- Nahauna, P.S.- Sasaram, District- Rohtas
 2. AJAY KUMAR Son of Dinbandhu Ram Resident of- Barkamore, P.O.- Nahauna, P.S.- Sasaram, District- Rohtas
 3. VIJAYA RANI Wife of Vinod Kumar Singh Resident of New Colony Pakri, Arrah, West of Lower Primary School, P.S.- Nawada, District- Bhojpur
 4. VINOD KUMAR SINGH Son of Late Satya Narayan Singh Resident of New Colony Pakri, Arrah, West of Lower Primary School, P.S.- Nawada, District- Bhojpur
 5. UMESH KUMAR Son of Chandrika Prasad Resident of Village- Barewa, P.O.- Chandan Bara, P.S.- Dhaka, District- East Champaran, Pin Code- 84304

... .. Petitioner/s

Versus

1. The State of Bihar
2. Anupama Singh Wife of Dr. Anand Krishna Resident of Flat No.-404, Muskaan Maheshwari Apartment, Biscomaun Colony, Kumhrar, P.S.Alamganj, District- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Soni Shrivastava, Adv.
Mr. Ravi Bhardwaj, Adv.
For the Opposite Party/s : Mr. Dilip Kumar No. 1, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 5 12-10-2023 1. Heard learned counsel for the petitioners and learned APP Mr. Dilip Kumar No.1 for the State.
2. Nobody appears on behalf of the O.P. No.2.
3. The case was taken up on 07.10.2023, and thereafter, again on 09.10.2023 but still none had appeared on behalf of the O.P. No.2, the Court cannot wait endlessly for the



learned counsel appearing on behalf of the O.P. No.2.

4. The learned counsel for the petitioners submits that the present quashing application has been filed, seeking quashing of the order dated 28.07.2022, passed by the Court of Vishudha Prakash, learned Successor Judicial Magistrate, 1st Class, Danapur, in connection with Complaint Case No. 535© of 2020, whereby cognizance of offences under sections 406, 420, 467, 468, 384 and 120B of the IPC has been taken.

5. The learned counsel for the petitioners submits that from perusal of the allegation, as alleged in the complaint, it would manifest that a purely civil dispute has been given a cloak of a criminal case.

6. It is further submitted that the O.P. No.2 instituted the aforesaid complaint case, alleging that land pertaining to *Khata* no. 62, Plot no. 615, Area 4.5 katha at Rukanpura, Tilaknagar, P.S. Rupaspur, District-Patna is her ancestral property, which was purchased by her father for her mother on 20.12.1982, it is next alleged that after the death of her parents, the said property was under joint possession of the O.P. No.2 and her brother, further a Title Suit No. 395/2017 was filed in the Court of learned Sub-Judge-I, Danapur by Sanjeev Ranjan and Amit Ranjan, as plaintiffs, in which the O.P. No.2 and



others were impleaded, as defendants. It is next alleged that during pendency of the suit, the accused persons conspired by making forged sale agreement of the said property to cause wrongful loss to the complainant and wrongful gain to themselves, it is next alleged that when the complainant came to know about the said fact, she objected, on which the accused persons asked for extortion of Rs. 25 lacs.

7. The learned counsel submits that from perusal of the allegation as alleged in the F.I.R., it would manifest that the dispute is purely civil, it is submitted that the petitioner no.1 to 4 are purchasers of the land from Amit Ranjan and Sanjeev Ranjan and the petitioner no.5 is the witness on the sale deed. It is further submitted that it absolutely does not stand to reason that if what has been alleged in the complaint is true, in that event, the said fact could have been brought to the notice of learned Sub-Judge in the pending Title Suit No.395/2017 but instead of resorting to the remedy available to the O.P. No.2, in law, she chose to coerce the petitioners into submission by filing a false criminal case, it is next submitted that the petitioners were completely unaware that a Title Suit was pending in between the brothers and the sisters, it is further submitted that even presuming what has been alleged is true without admitting



then at best, it can be alleged that the petitioners are purchasers from rightful owners of the land, it is next submitted that in the nature of allegation, as alleged in the F.I.R., prima facie, no offence is made out under sections 406, 420, 467, 468, 384 and 120B of the IPC against the petitioners, as there was no entrustment of any property with the petitioners, which they breached nor they had any intention of cheating the O.P. No.2 right from the beginning, in purchasing the land, as far as sections 467 and 468 of the IPC is alleged, it is not the case of the O.P. No.2 that the sale deed is forged and fabricated and as far as allegation under section 384 IPC is alleged, the same is ornamental in nature.

8. The learned APP Mr. Dilip Kumar No.1 for the State opposes.

9. Considering the submissions made on behalf of the petitioners, the order 28.07.2022 passed by the Court of Vishudha Prakash, Successor Judicial Magistrate, 1st Class, Danapur, in connection with Complaint Case No. 535© of 2020, whereby cognizance of offences under sections 406, 420, 467, 468, 384 and 120B of the IPC has been taken, is hereby quashed.

10. It is clarified that the order of cognizance is



quashed only with respect to the petitioners herein.

(Satyavrat Verma, J)

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