

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22722 of 2016

Arising Out of PS. Case No.-14774 Year-2014 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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1. Baleshwar Pd. Singh, Son of Late Rameshwar Pd. Singh
 2. Awadh Kishore Pd. Singh, son of Late Ram Udgar Prasad Singh,
 3. Kaushal Kishore Pd. Singh, son of Late Ram Udgar Prasad Singh,
 4. Satish Kumar son of Late Hriday Narain Singh
 5. Kumod Kumar Singh Son of Late Yogendra Prasad Singh
 6. Srikant Singh Son of Late Chandrika Singh,
 7. Ajay Kumar son of Late Ramashankar Singh
 8. Anil Kumar Son of Late Ram Kumar Singh
 9. Ramakant Singh son of Late Chandrika Singh
 10. Ram Kishore Singh son of Late Ram Chandra Prasad Singh, All residents of Village Nao Kothi, Police Station Nao Kothi, in the district of Begusarai.

... .. Petitioners

Versus

1. State of Bihar
2. Smt. Veena Devi wife of Sri Sanoj Kumar resident of Raja Kapoor, Police Station Nao Kothi, in the district of Begusarai.

... .. Opposite Partys

Appearance :

For the Petitioners	:	Mr. Prabhu Narayan Sharma, Advocate
For the State	:	Mr. Sanjay Kumar Singh, APP
For the O.P. No.2	:	Mr. Anshudhar Sharma, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

15 25-10-2024 The present petition has been preferred by the

Petitioner under Section 482 Cr. PC against the impugned order dated 24.12.2014 passed by learned Judicial Magistrate, Ist Class, Begusarai in Complaint Case No.14774 of 2014 whereby cognizance of offence Punishable under Section 467 of the Indian Penal Code has been taken against the Petitioners.

2. The allegation as per the complaint is that the



Petitioner Nos. 1, 2 & 3, Baleshwar Pd. Singh, Awadh Kishore Pd. Singh and Kaushal Kishore Pd. Singh respectively have sold parcel of land to the Opposite Party No.2 without any title for a consideration amount of Rs.3,40,000/- and on the sale deed, the Petitioner No.4, Satish Kumar, is identifier of the seller, whereas the Petitioner Nos. 5 to 10, Kumod Kumar Singh, Srikant Singh, Ajay Kumar, Anil Kumar, Ramakant Singh and Ram Kishore Singh are witnesses to the execution of the sale deed.

3. Learned counsel for the Petitioners submits that the Petitioners are innocent and have falsely been implicated in this case. He further submits that the Petitioner No.1, 2 & 3 have clear title to the property because this property is their *khatiyani* land and the *khatiyani* was in the name of their grandfather, Jitu Singh and Nanhku Singh and even in the recital of the sale deed it has been mentioned that they have got this land on partition of the ancestral property. Hence, no offence is made out by the Petitioner Nos. 1 to 3 and even rest Petitioners are in no way connected with the alleged offence. At most, it is a civil dispute and the Opposite Party No.2 has remedy to move Civil Court by way of Civil Suit for permanent injunction against the person who is interfering in the peaceful possession of the property and he may even implead the sellers who are Petitioners Nos.1 to 3



as Defendants and if the Civil Court finds that the Petitioner Nos. 1 to 3 have no title to the property, they may be liable to pay compensation to the Opposite Party No.2 or they may be liable to be prosecuted for cheating under Section 420 of the Indian Penal Code.

4. However, learned counsel for the Opposite Party No.2 and learned APP for the State defend the impugned order whereby cognizance has been taken against the Petitioners. They submit that the Petitioner Nos. 1 to 3 have no title. But, they have misrepresented to the Opposite Party No.2 regarding title and taken money from the Opposite Party No.2 as consideration money for sale.

5. Perused the material on record and considered the submissions advanced by both the parties.

6. I find that at this stage, Opposite Party No. 2 has no conclusive proof that the Petitioner Nos. 1 to 3, who have sold the land in question to the Opposite Party No.2 have no title. In the sale deed, there is recital to the effect that the land in question has come to the Petitioner No. 1 to 3 on partition of the ancestral property and the ancestral property is a *khatiyani* land in the name of their grandfather, Jitu Singh and Nanhku Singh.

7. Hence, unless it is clearly held by the Court of Law



that the Petitioner Nos.1 to 3 have no title to the land, such complaint of the Opposite Party No.2 is premature. Hence, I find that the alleged facts and circumstances constitute at most a dispute of civil nature and the Opposite Party No.2 has remedy to move Civil Court by way of Civil Suit for permanent injunction against the person who may be interfering in the peaceful possession of the property of Opposite Party No.2 and the Petitioners Nos.1 to 3, who have sold the property, may be also impleaded as defendants seeking relief that in case it is found that these Petitioners have no title to the property, they may be liable for payment of compensation to the Opposite Party No.2. After such finding, the Opposite Party No.2 may also initiate criminal proceeding against the sellers. In case limitation comes in the way, the Court concerned may take into consideration that the Opposite Party No.2 was pursuing her matter in wrong forum.

8. Hence, the impugned order is not sustainable in the eye of law and accordingly it is quashed and set aside.

9. The present petition stands allowed accordingly.

(Jitendra Kumar, J.)

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