

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5324 of 2017

Arising Out of PS. Case No.-810 Year-2014 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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1. Ashok Kumar Son of Arun Kumar Resident of Village-Shahidpur, Police Station-Vidyapati, District-Samastipur. At Present Assistant Registrar, Co-operative, Bhagalpur
 2. Manoranjan Madhukar Chourasiya @ Manoranjan Kumar Madhukar Son of late Barhamdeo Pd. Resident of Village and P.S. Garh Mohni, District-Khagaria. At Present Circle Officer, Sahebpur Kamal, Police Station - Sahebpur Kamal, District-Begusarai.
 3. Prem Chandra Vidyarthi @ Vidyarthi Premchand Son of Sri Mishri Prasad, Resident of Village-Katahra, Police Station-Sultanganj, District-Bhagalpur. At Present Halka Karamchari, Gpuradih Block, Police Station-Gouradih, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ramchandra Sharma Son of Late Jagan Sharma Resident of Village-Asha Tola, Police Station-Bihpur, Bhawanipur, District-Bhagalpur,

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda, Advocate
For the Opposite Party/s : Mr. Shailendra Kumar Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

Date : 11-01-2024

Heard learned counsel for the petitioners and learned A.P.P.
for the State.

2. Learned counsel for the petitioners submits that notices on opposite party no. 2 were issued by order dated 18.09.2023 but the opposite party no. 2 despite receiving the notice personally chooses not to appear and contest the case. Learned counsel further submits that petitioner no. 1 at the relevant time when the occurrence is alleged to have taken place was the Circle Officer and petitioner no. 2 was the Circle Inspector and the complainant alleges that a partition had taken



place in the family in the year 1975 but his brother based on forged and fabricated document got half share of his land which he received in partition of 1975 mutated in his name.

3. Learned counsel for the petitioners submits that the petitioners are the officials and as such they mutated the land in favour of the brother of the complainant based on the document which was produced before them and they absolutely had no information that the document was forged and fabricated. It is further submitted that the petitioner no. 1 as Circle Officer while discharging his official duty had passed the order of mutation which is in nature of quasi-judicial order. It is thus submitted that since the petitioner no. 1 had passed the order in his official capacity as such no motive can be alleged against him as the order is subject to challenge before the superior forum. It is next submitted that cognizance was taken in absence of sanction under Section 197 Cr.P.C. which further makes the order impugned vulnerable. It is also submitted that as far as petitioner no. 2 is concerned against him the allegation is that the authorities in connivance with the brother of the opposite party no. 2 helped in mutating the land of the opposite party no. 2 in name of his brother. Learned counsel for the petitioners submits that the allegations are in realm of allegation and the opposite party no. 2 despite receiving the notice chooses not to appear and contest which amply demonstrates that the case was filed by way of a malicious prosecution in order to coerce the petitioners into submission.



4. Learned A.P.P. for the State opposes the quashing application.

5. Considering the submissions made by the learned counsel for the petitioners and the fact that the opposite party no. 2 despite receipt of notice chooses not to appear and contest the case and in the nature of allegation as alleged, the Court prima facie does not find any merit in the allegation against the petitioners, as such, the order dated 30.04.2016 passed by the learned Additional Chief Judicial Magistrate-II, Naugachia in Complaint Case No. 810 of 2014 whereby cognizance has been taken under Sections 420, 467, 468, 471 and 120(B) of the Indian Penal Code is hereby quashed.

6. Accordingly, the present quashing application is allowed.

(Satyavrat Verma, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
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