

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5820 of 2017

Arising Out of PS. Case No.-38 Year-2015 Thana- COMPLAINT CASE District- Sheohar

1. Rama Kant Singh
2. Arbind Singh Son of Late Satya Nara Singh
3. Ripu Sudan Kumar Son of Late Girish Nandan Singh All of Village- Bhaluchi, P.S. and District Sheohar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rajesh Singh Son of late Manoranjan Singh Resident of Village- Mahuaria, P.S. and District- Sheohar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Arun Kumar, Advocate
For the State	:	Mr. Tarkeshwar Nath Thakur, A.P.P.
For the O.P. No. 2	:	Mr. Ashok Kumar Pathak, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

Date : 11-01-2024

Heard learned counsel for the petitioners, learned A.P.P. for the State and learned counsel for the opposite party no. 2.

2. Learned counsel for the petitioners submits that the opposite party no. 2 despite receiving notice personally chooses not to appear and contest the case. It is further submitted that in the nature of allegation as alleged in the complaint case, it would manifest that prima facie no offence is made out and purely civil dispute has been given a criminal colour. It is next submitted that opposite party no. 2 and the petitioners are agnates and the opposite party no. 2 alleges that the petitioners despite having no concern with the land in question sold the same by executing a sale deed. It is also submitted that if the sale deed has been executed, the remedy of the opposite party no. 2 was to get the sale deed cancelled but then instead of resorting to the remedy in accordance



with law, the present complaint case came to be instituted in order to coerce the petitioners into submission when it is asserted and submitted that petitioners are the owners of the land in question for which the sale deed was executed.

3. Learned counsel for the petitioners submits that the learned Magistrate without appreciating the facts in its correct perspective took cognizance in a mechanical manner. It is further submitted that since opposite party no. 2 only with a view to maliciously prosecute the petitioners had instituted the complaint case as such he chooses not to appear and contest.

4. Learned counsel appearing on behalf of the opposite party no. 2 is not in a position to rebut the submissions made by the learned counsel for the petitioners.

5. Considering the submissions made by the learned counsel for the petitioners, the order dated 04.07.2015 passed by the learned Chief Judicial Magistrate, Sheohar in Complaint Case No. 38 of 2015 whereby cognizance of the offences under Sections 418, 468 and 120(B) of the Indian Penal Code has been taken, is hereby quashed.

6. Accordingly, the present quashing application stands allowed.

(Satyavrat Verma, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	11.01.2024
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