

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28562 of 2016

Arising Out of PS. Case No.-1446 Year-2013 Thana- KHAGARIA COMPALINT CASE
District- Khagaria

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1. Sulakshna Devi, Wife of Late Devi Charan, Resident of Village- Godna, P.S.-Rivilganj, Distt.-Chapra
 2. Praveen Kumar, Son of Late Binod Shankar Prasad, Resident of Babuaganj, P.S.- Khagaria, Distt.- Khagaria
 3. Rajeev Kumar @ Rajeev Yadav, Son of Chalitra Yadav, Resident of Village- Santosh, P.S.- Alouli, Distt.- Khagaria
 4. Mohan Prasad Yadav, Son of Shankar Yadav, Resident of Village- Santosh, P.S.- Alouli, Distt.- Khagaria
 5. Bachchi Sada @ Buchki Sada, D/O- Late Ram Bhajan Sada, Resident of Village- Rajajan, P.S.- Mufassil, Distt.- Khagaria
 6. Hira Sada, Son of Aanandi Sada, Resident of Village- Santosh, P.S.- Alouli, Distt.- Khagaria
 7. Smt. Geeta Devi @ Geeta Devi, Wife of Janardan Sada, Resident of Village- Rajajan Babhana, P.S.- Mufassil, Distt.- Khagaria
 8. Yugal Kishore Ram, Son of Late Babu Lal Ram, Resident of Village- Sanjhauti, P.S.- Alouli, Distt.- Khagaria
 9. Sri Narayan Sahni @ Narayan Sahni, Son of Ramji Sahni, Resident of Village- Santosh, P.S.- Alouli, Distt.- Khagaria
 10. Shankar Yadav, Son of Late Babaji Yadav, Resident of Village- Santosh, P.S.- Alouli, Distt.- Khagaria
 11. Sri Sikendra Yadav @ Sikandar Yadav, Son of Late Babaji Yadav, Resident of Village- Santosh, P.S.- Alouli, Distt.- Khagaria
 12. Most. Panma Devi @ Panma Devi, Wife of Late Balihari Yadav, Resident of Village- Santosh, P.S.- Alouli, Distt.- Khagaria
 13. Sri Satrudhan Yadav @ Satrudhan Yadav, Son of Late Khelan Yadav, Resident of Village- Santosh, P.S.- Alouli, Distt.- Khagaria
 14. Sri Ram Swarup Yadav @ Ram Swarup Yadav, Son of Late Khelan Yadav, Resident of Village- Santosh, P.S.- Alouli, Distt.- Khagaria
 15. Sri Kailash Sada @ Kailash Sada, Son of Late Ramdeo Sada, Resident of Village- Babhana, P.S.- Alouli, Distt.- Khagaria
 16. Sri Batoran Yadav @ Batoran Yadav, Son of Sri Ram Sharan Yadav, Resident of Village- Santosh, P.S.- Alouli, Distt.- Khagaria
 17. Chandan Yadav, Son of Late Ramdeo Yadav, Resident of Village- Santosh, P.S.- Alouli, Distt.- Khagaria
 18. Manoj Yadav, Son of Late Ramdeo Yadav, Resident of Village- Santosh, P.S.- Alouli, Distt.- Khagaria

... .. Petitioner/s

Versus



1. The State of Bihar
2. Parmanand Prasad Son of Late Banbari Lal Bhagat Resident of Babuaganj,
Ward No. 4, P.S.- Khagaria, Distt.- Khagaria

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Viveka Nand Singh, Advocate Mr. H. Jha, Advocate
For the OP No. 2	:	Mr. Rajesh Kumar, Advocate
For the State	:	Mr. Sunil Kr. Pandey, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL JUDGMENT

Date : 04-09-2024

The petitioners have filed the instant application under Section 482 of the CrPC, praying for the quashing of an order dated 28th April 2015 passed by the Sub-Divisional Judicial Magistrate, Khagaria in Complaint Case No. 1446C of 2013 by virtue of which the learned Magistrate took cognizance of the offence under Section 420 of the IPC against the petitioners.

2. The learned Advocate appearing on behalf of the opposite party no. 2 took the information about the stage of the case and submitted that the case is still pending at the stage of appearance.

3. In view of the earlier order dated 14th September 2023, passed by the Co-ordinate Bench of this Court, staying further proceeding of the aforesaid criminal case.

4. The case of the petitioners in brief is that the disputed land was recorded in the name of the complainant and *Jamabandi*



(mutation) was created in respect of the said land bearing no. 556. It is alleged by the complainant that after the death of his mother, the complainant had been possessing the disputed land. Initially, her mother was the registered owner of the said land and subsequently, the land is registered in the name of the complainant under Jamabandi (mutation) No. 415. It was further alleged by the complainant that the petitioner no. 01, namely, Sulakshna Devi obtained Jamabandi No. 496 in respect of the same land and sold the aforesaid land in favour of petitioners no. 2 to 18. When possession over the said land came to be disputed, one Binod Shankar initiated a proceeding under Section 145 of the CrPC which was registered as Case No. 439M/70. The said proceeding was disposed of finally, maintaining *status quo in* respect of the possession in favour of the opposite party no. 2. It is the case of the petitioners that they are the seller and *bona fide* purchaser respectively in view of the fact that the seller had the ownership, possession, and right to sell the property to the petitioners.

5. It is also submitted by the learned counsel appearing on behalf of the petitioners that the dispute between the parties relating to land is essentially a dispute of a civil nature. The opposite party no. 02 has already filed a civil suit which is pending



in the trial court, therefore, at this stage, no proceeding under Section 420 of the IPC can be continued against the petitioners.

6. I have heard the learned counsels appearing on behalf of the parties.

7. It is needless to say that Section 415 of the IPC defines cheating. If the ingredients of the offence of cheating are dissected, the following ingredients are found:-

(i) deception of any person

(ii) inducing that person to:-

(a) deliver any property to any person or,

(b) to consent that person shall retain any property, or

(c) intentionally inducing that person to do or omit to do anything which he would not do or omit if he were not so deceived and shall act or omission causes or is likely to cause damage or harm to that person, in body, mind, reputation, or property.

8. Section 420 of the IPC is a penal provision for cheating by dishonestly inducing any person to deliver any property. In the instant case, both the petitioner no. 1 and the opposite party no. 02 are claiming their possession over the disputed land on the basis of the deed of ownership and Jamabandi (mutation).



9. It is not within the scope of the criminal court to decide the disputed question of ownership of land between the parties. The civil court is the competent authority to decide the ownership and possession of the parties if the civil court finds that the deed of ownership in the name of the mother of the opposite party no. 02 appears to be genuine and a record of rights was created on the basis of the said deed of ownership, the Court shall declare ownership and possession of the opposite party. If, on the other hand, the contrary is proved, the suit will fail. In the instant case, the opposite party no. 02 who claims to be the owner in possession of the disputed land shall not be deceived by petitioner no. 01, if there is any deception by petitioner no. 01, it might be against petitioners no. 2 to 18 because, on the basis of alleged false documents, she disposed of the property in favour of petitioners no. 2 to 18.

10. In view of the above discussion, this Court is of the view that the ingredient of the offence under Section 420 of the IPC are absent and thus, the above-mentioned complainant case is liable to be quashed.

11. Accordingly, the instant application filed under Section 482 of the CrPC is allowed. The order of cognizance dated



28th April 2015 passed by Sub-Divisional Judicial Magistrate,
Khagaria in Complaint Case No. 1446C/2013 is quashed.

(Bibek Chaudhuri, J)

Suraj Dubey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.09.2024
Transmission Date	05.09.2024

