

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45408 of 2016

Arising Out of PS. Case No.-1740 Year-2013 Thana- PATNA COMPLAINT CASE District-
Patna

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Usha Singh @ Usha Sinha, Wife of Amrendra Kishore, resident of S.K.
Tarafdar Road, Mohalla, P.S. Adampur, District - Bhagalpur

... .. Petitioner/s

Versus

1. State of Bihar
2. Birendra Kishore, Son of Late Bindeshwari Prasad, Resident of Kamakhya
Bhawan, P.S. Shastri Nagar, District - Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar, Adv.
For the State	:	Mr. Binod Kumar 2, APP
For the O.P. No. 2	:	Mr. Gouranga Chatterjee, Adv. Mr. Nilanjan Chatterjee, Adv. Mr. Ujjwal Raj, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

9 05-12-2024 Heard Mr. Rajesh Kumar, learned counsel appearing

for the petitioner, Mr. Binod Kumar No. 2, learned APP

appearing for the State and Mr. Gouranga Chatterjee, learned

counsel appearing for the O.P. No. 2.

2. The instant application has been filed under section
482 of the Code of Criminal Procedure (in short 'Cr.P.C.') with
a prayer to quash the order dated 13.05.2014 passed by the court
of learned Judicial Magistrate, 1st Class, Patna, in Complaint
Case No. 1740(C) of 2013, whereby and whereunder the
cognizance of the offences punishable under sections 420, 465,
467, 468, 471, 472 and 120B of the Indian Penal Code (in short



‘IPC’) has been taken against the petitioner and other two co-accused persons.

3. Heard both the sides and perused the order impugned and other relevant materials. Admittedly, petitioner’s husband, namely, Amrendra Kishore, O.P. No. 2, namely, Birendra Kishore and one Dharmendra Kishore are sons of Late Bindeshwari Prasad Singh, who purchased the land in question as well as other lands through three sale deeds bearing Nos. 3371, 3372 and 3373 in the name of his three sons and admittedly, the lands concerned to these three sale deeds belong to the same Khata number, Tauzi number, Plot number, and Thana number, etc. The main allegation levelled by the complainant, who is here the O.P. No. 2, as appears from his counter affidavit is that in the year 2001, petitioner’s husband Late Amrendra Kishore filed a Title Suit No. 487/2001 seeking partition of the properties including the lands which were purchased by his father in the name of three brothers but during the pendency of the partition suit, the petitioner’s husband sold a land adjacent to the South of the land of O.P. No. 2 in collusion with the petitioner and her son, namely, Abhishek Sinha to one, namely, Smt. Pinki Sharma showing a twelve feet wide road on the East of all the three plots of three brothers running South to



North which was never in existence and the same has falsely been shown on the land of the O.P. No. 2 with a view to grab his land. Accordingly, the main grievance of the O.P. No. 2 is that the petitioner's husband sold some part of the land concerned to the share of O.P. No. 2 which was purchased in his name by his father showing the said land as 12 feet wide road while according to O.P. No. 2, such road or path is not in existence and there is an alternative path in the Eastern side belonging to the petitioner's husband's land which was not sold by the petitioner's husband rather some part of the land of O.P. No. 2, showing the same, the alleged road has been sold. It is an admitted position that the lands concerned to the sale deeds through which the said lands were purchased by the father of the O.P. No. 2 in the name of his three sons belong to the same plot number, Khata number and Tauzi number and further, a Title Suit No. 487/2001 is also pending in between both the parties, in the opinion of this Court, from the face of allegations, the alleged offences punishable under sections 420, 465, 467, 468, 471, 472 and 120B of the IPC, of which the cognizance has been taken by the order impugned do not even *prima facie* attract and the main dispute in between both the parties relates to a civil wrong and it appears that the O.P. No. 2 filed his



complaint with an intention to settle the said civil dispute by making pressure upon the petitioner and others and here, it is important to mention that the husband of the petitioner who allegedly sold the land in question is no more and as per the allegation, the petitioner and her son were simply involved with late Amrendra Kishore in selling the land in question. In the light of these circumstances, in the opinion of this Court, subjecting the petitioner to trial for the alleged offences will be abuse of the process of court, hence, the order impugned is hereby set aside and the instant petition stands allowed.

(Shailendra Singh, J)

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