

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25714 of 2018

Arising Out of PS. Case No.-1174 Year-2014 Thana- ROHTAS COMPLAINT CASE
District- Rohtas

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1. Kishore Kunal Krishnanand Mishra son of Sri Alakh Narayan Sharma.
 2. Alakh Narayan Sharma son of Late Jagdish Rai.
 3. Shiv Parshan Rai, son of Late Raj Narayan Rai, All residents of Village- Gara, P.S. Kochhila, District- Rohtas.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Vimla Rai, wife of Praduman Rai, resident of Village- Gara, P.S. Kochhila, District- Rohtas.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ramesh Kumar Choudhary, Adv.
For the Opposite Party/s : Mr. Ravindra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 23-01-2024 1. Heard learned counsel for the petitioners and learned A.P.P. for the State.

2. Learned counsel for the petitioners submits that the present quashing application has been filed seeking quashing of the order dated 05.02.2018 passed by the learned Sessions Judge, Rohtas at Sasaram in Criminal Revision No.41/2017, by which the Revision application preferred against the order dated 04.08.2016 passed by the learned A.C.J.M.-1st, Sasaram in Complaint Case No. 1174/2014 whereby cognizance of offence under Sections 467, 468, 471 and 120(B) of the Indian Penal Code has been taken, has been affirmed. The learned counsel



next submits that from perusal of the allegation as alleged in the complaint, it would manifest that the dispute is purely civil to which a criminal colour has been given. It is next submitted that one Harakh Narain Rai executed a will dated 05.09.1983 in favour of the petitioner. It is submitted that the petitioner is nephew of Harakh Narain Rai and O.P. No.2 who is daughter of Harakh Narain Rai is disputing the will on the ground that it has been obtained fraudulently. It is next submitted that since the petitioner was looking after Harakh Narain Rai in his old age, as such, he executed the will with respect to his property in his favour.

3. The learned APP Mr. Ravindra Kumar vehemently rebuts the submission of the learned counsel for the petitioner and submits that if what has been submitted by the learned counsel for the petitioners is a correct fact in that event the petitioner ought to have moved before a competent forum for getting the will probated but then the same was not done. The learned APP further rebuts the submission of the learned counsel for the petitioners that the will got probated by the Lok Adalat on the ground that Lok Adalat is not the forum for probating the will. It is also submitted that it absolutely does not stand to reason that when Harakh Narain Rai was having a daughter why



he would have executed the will in question in favour of the petitioner. Learned APP further submits that the submission of the learned counsel for the petitioners that the dispute is purely civil to which a criminal colour has been given is fit to be rejected for the reason that there appears no reason why Harakh Narain Rai would have executed a will with respect to his entire property in favour of the petitioner who is his nephew when his daughter was alive and when the will does not even remotely suggests that the O.P. No.2 herein was not taking care of her father and it was petitioner who in her place looked after him. The learned APP further submits that if what has been submitted by the learned counsel for the petitioner is true in that event the same can be raised at the stage of framing of charge as the learned court at the stage of framing of charge has wider jurisdiction to appreciate the issue in its correct perspective.

4. Considering the submissions made by the learned APP, the Court is not inclined to entertain the quashing application.

5. The quashing application is hereby rejected.

(Satyavrat Verma, J)

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