

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55241 of 2018

Arising Out of PS. Case No.-826 Year-2008 Thana- Rohtas Complaint Case District- Rohtas

1. Manik Chand Mahto @ Manik Chand Singh S/o Late Ram Prasad Mahto, R/o Mohalla- Kabirganj, P.S.- Sasaram, District- Rohtas.
2. Rabish Shrivastava S/o Sri Premchand Prasad, R/o Mohalla- Chaukhanli, P.S.- Sasaram Town, District- Rohtas.
3. Rajendra Singh S/o Triveni Singh, R/o Mohalla- Khilanganj, P.S.- Sasaram, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sheonath Singh S/o Late Hari Singh, R/o Vill.- Belari, Post and P.S.- Sasaram, District- Rohtas.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Surendra Kumar Choubey, Advocate

For the Opposite Party/s : Mr. Ram Priya Saran Singh, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 18-09-2024 The petitioners have approached this Court under Section 482 of the Cr.P.C. praying for quashing of an order dated 24.01.2018 passed in Cr. Revision No.206 of 2015 filed by the petitioners/accused persons against the order dated 08.06.2015 passed in Complaint Case No.826 of 2008 by the learned Judicial Magistrate, 1st Class, Sasaram, Rohtas.

2. The opposite party no.2 lodged a complaint petition against the accused persons alleging, inter-alia, that one Manik Chand Singh in conspiracy with other accused persons prepared a forged agreement for sale (Mahadnama) executed by one Hari



Mahto (father of the complainant) in the year 2001.

3. It is contended by the complainant that his father died in the year 1997 and there was no scope for his deceased father to execute any agreement for sale in the year 2001. The complainant came to know about the said forged agreement for sale, when notice was sent to him by the said Manik Chand Singh for execution of the sale deed in respect of the property mentioned in the Schedule of the agreement for sale.

4. It is contended on behalf of the petitioners that over the self same incident, a civil suit is pending, therefore, the criminal case is not maintainable against them. They filed an application under Section 245 of the Cr.P.C. but the said application was rejected by the learned Magistrate and the said order was affirmed by the learned Additional Sessions Judge-VIII, Rohtas at Sasaram in Cr. Revision No.206 of 2015.

5. It is needless to say that the civil suit was filed by Manik Chand Singh and/or other accused persons for specific performance of contract for sale. The instant complaint case relates to an issue as to whether the agreement for sale is forged or not, if forgery was committed by executing an agreement for sale in the name of a dead person, such act or omission amounts to an offence under Section 467/471 alongwith other penal



provisions of the I.P.C.

6. Section 245 of the Cr.P.C. is a provision applicable to warrant trouble cases instituted otherwise than on police report. In warrant trouble complaint case after appearance of the accused persons, the complainant is called upon to adduce evidence on behalf of the prosecution under Section 244 of the Cr.P.C.

7. The next stage is delineated in Section 245 of the Cr.P.C. Section 245 of the Cr.P.C. runs thus :-

“245. When accused shall be discharged-

(1) If, upon taking all the the evidence referred to in Section 244, the Magistrate considers, for reasons to be recorded that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.”

8. Plain reading of Section 245 of the Cr.P.C. suggests that if upon recording the evidence of the complainant and all witnesses on his behalf, the learned Magistrate considers that no case against the accused has been made out which, if unrebutted would warrant his conviction, the Magistrate shall discharge the



accused by passing a reasoned order.

9. Sub Section 2 of Section 245 of the Cr.P.C. says that the provision of Sub-Section 1 does not prevent the Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate he considers the charge to be groundless.

10. In the instant case, the learned Magistrate in his order dated 08.06.2015 clearly recorded that the evidence of the complainant and all other witnesses were recorded and the witnesses supported the case of the complainant. There is ample material for proceeding further and framing charge. The said order was tested in criminal revision and the revisional application was dismissed.

11. Therefore, I do not find any reasons to interfere with the order dated 24.01.2018 passed by the Revisional Court, there is no scope to quash the criminal proceeding and accordingly, the instant criminal miscellaneous case under Section 482 Cr.P.C. is dismissed.

(Bibek Chaudhuri, J)

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