

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3616 of 2023

Arising Out of PS. Case No.-54 Year-2022 Thana- BHABHU(KAIMUR) COMPLAIN C
District- Kaimur (Bhabua)

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SHIV CHARAN RAM S/O LATE MUKHOO RAM RESIDENT OF
VILLAGE- TEKARI KALA PS- MOHANIA DISTRICT- KAIMUR AT
BHABHUA

... .. Appellant/s

Versus

1. The State of Bihar
2. RAJWANSH RAI SON OF LATE RAMBRIKSHA RAI RESIDENT OF
VILLAGE- BHARKHAR, P.S.- MOHANIA, DISTRICT- KAIMUR AT
BHABHUA
3. LALITA DEVI WIFE OF RAJWANSH RAI RESIDENT OF VILLAGE-
BHARKHAR, P.S.- MOHANIA, DISTRICT- KAIMUR AT BHABHUA
4. MOST. CHANDANI RAI WIFE OF LATE SATYA PRAKASH RAI
RESIDENT OF VILLAGE- BHARKHAR, P.S.- MOHANIA, DISTRICT-
KAIMUR AT BHABHUA
5. RAKESH RAI SON OF ASHMUNI RAI RESIDENT OF VILLAGE-
BARKI AKORHI, P.S.- KARHAGAR, DISTRICT- ROHTAS AT
SASARAM
6. ASHMUNI RAI SON OF LATE LAKSHMAN RAI RESIDENT OF
VILLAGE- BARKI AKORHI, P.S.- KARHAGAR, DISTRICT- ROHTAS
AT SASARAM

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Anil Kumar Maharaj, Advocate
For the State	:	Mr. Binay Krishna, Spl. P.P.
For the Respondent No. 2 and3:	:	Mr. Kumar Sunil, Advocate
For the Respondent No. 4 to 6:	:	Mr. Arun, Advocate
	:	Mr. Md. Anwar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 23-01-2024 1. Heard learned counsel for the appellant, learned
counsels for the respondent no. 2 to 6 and learned Spl. P.P. for
the State.

2. The instant appeal has been filed against the order
dated 15.10.2022 passed in Complaint Case No. 54 of 2022 by



learned Additional Sessions Judge- 1st cum- Special Judge, Kaimur at Bhabhua, whereby and whereunder the complaint petition filed by the appellant has been dismissed with holding that no case is made out under IPC and SC/ST Act.

3. Mr. Anil Kumar Maharaj, learned counsel appearing for the appellant submits that the appellant is a retired Principal and belongs to Scheduled Caste and he purchased a land in question in the year 1994 from Rajwansh Rai respondent no.2, Manoj Rai, Prem Prakash Rai, Most. Chandani Devi, wife of late Satya Prakash Rai and Lalita Devi, wife of Rajwansh Rai who are said to be members of the same family and they were paid all consideration money of sale by the appellant but they had not executed the Sale Deed of the said land since 25 years with ill motive. The appellant further alleged that the respondent no. 2 deceitfully and mutually settled in partition of land in question and when the appellant, after retirement from his service in the year 2017, insisted respondent no. 2 and his family members to execute the Sale Deed, then they flatly refused to execute the Sale Deed and also demanded current market rate of the concerned land and thereafter, on the application of Most. Chandani Devi, who was one of the sellers, a land measurement Case No. 18/2019-2020 was initiated and



thereafter, Anchal Amin came at the plot of land in question for measurement that was protested by the appellant on the basis of tomb of his parents, electric connection and his possession over the said land since the last 25 years as a result of which, measurement process could not be completed. It was further alleged that respondents Ashmuni Rai and Rakesh Rai who were also present on disputed land on the same day when measurement process was being carried out, abused the appellant and his family members using caste name on account of non-completion of measurement process and also threatened to kill the appellant and the respondents also told the appellant that they would not register the land in his favour rather they would prefer to register the said land in favour of other persons and thereafter, all the respondents jointly damaged trees of Saagwan, Mahogani and Eucalyptus, standing over the land in question. Thereafter, the appellant lodged SC/ST Bhabhua P.S. Case No. 26 of 2021 that was registered for the offences punishable under Sections 504, 506, 420, 427 and 34 of the Indian Penal Code and Section 3(1)(r)(s)(f)(g)/3(2)(va) of the SC/ST Act but the police did not investigate fairly and properly despite the witnesses fully supported the appellant's case during investigation and finally, police submitted final form on



12.05.2022 in favour of the respondents on the ground of lack of evidence but before that, the appellant who had an apprehension of partiality on the part of the police in the investigation, had filed a Complaint-cum-Protest Petition on 08.10.2021 before the trial Court that was registered and numbered as Complaint Case No. 54 of 2022 and after the submission of final report, the learned trial Court proceeded on the appellant's Complaint-cum-Protest Petition and made an inquiry and examined three inquiry witnesses as well as the S.A. of the complainant and all of them fully supported the appellant's case but even then the learned trial court dismissed the appellant's Complaint-cum-Protest Petition.

4. It has been further argued by learned counsel for the appellant that while dismissing the appellant's Complaint-cum-Protest Petition the learned trial Court failed to appreciate the S.A. of the complainant and statements of the inquiry witnesses and any reason for disbelieving them was not assigned by the trial Court in the order impugned and the appellant's complaint was dismissed mainly on the ground of a land dispute running in between both the parties which was not proper while there is sufficient material to prima facie attract the alleged offences, hence, the order impugned is liable to be set



aside.

5. On the contrary Mr. Kumar Sunil, learned counsel appearing for respondent No. 2 and 3 and Mr. Arun, learned counsel for respondent nos. 4 to 6 submitted that from the allegations of the Protest Petition filed by the appellant as well as from the FIR which was initially lodged by him, it is clearly apparent that there was a dispute of registration of a Sale Deed in between the appellant and the respondents and the appellant lodged the said cases mainly to create pressure upon the respondents and the allegations levelled by him are completely absurd and not believable and during investigation, police did not find any substance in the allegations which were levelled by the appellant and did not find any evidence regarding the cutting of trees over the land in question by the respondents as alleged by the appellant and the order impugned has been rightly passed and there is no force in the instant appeal and it is liable to be dismissed.

6. Heard both the sides and perused the order impugned and other relevant materials. From the facts of the FIR and Complaint-cum- Protest Petition that was filed by the appellant during the course of investigation, one thing is quite clear that there was a long standing dispute in relation to



registration of a Sale Deed in between the appellant and respondent nos. 2 to 6 and during police investigation, the Investigating Officer did not find any supporting material to the allegation of cutting trees as appears from the case diary which is available before this Court and during inquiry, the inquiry witnesses revealed that a dispute arose in between both the parties when the process for measurement of the land in question was started, though they stated that the respondents used caste based abusive language against the appellant but the said allegation is completely vague as any specific role of any of the respondents was not revealed by the inquiry witnesses and even E.W.3. stated that at the time of process of measurement an altercation took place in between both the parties. Though, the said witness stated that the respondent Rajwansh Rai used caste based abusive language but he did not reveal the name of the appellant or any other person to whom that language was addressed by the said respondent. During inquiry the appellant examined himself, his son and one independent person namely, Md. Nizamuddin Khan only. Appellant and his son can be deemed to be interested persons and the statements of the E.W.3 are not sufficient to attract the main ingredients of the alleged offences.



7. In the light of the above discussed facts, this Court forms the opinion that the appellant attempted to lodge a criminal case against the respondent no. 2 to 6 firstly, by way of FIR and secondly, by way of Protest Petition with malice intention only to create pressure upon the said respondents to get the registration of the Sale Deed in question in his favour and the allegations levelled by him appear to be vexatious and the same do not warrant a criminal prosecution hence, this Court does not find any demerit and illegality in the order impugned and there is no force in the instant appeal, hence, it stands dismissed.

(Shailendra Singh, J)

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