

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62486 of 2022

Arising Out of PS. Case No.-2180 Year-2019 Thana- PATNA COMPLAINT CASE District-
Patna

Madanjeet Kumar @ Madanjeet Kumar Singh Son Of Late Ram Sarekh
Singh R/O Village- Bishnupura, P.S.- Bihta, District- Patna At Present East Of
Mig-136, Hanuman Nagar, Kankarbagh, P.S.- Patrakar Nagar, District- Patna
... .. Petitioner/s

Versus

1. The State of Bihar
2. Ram Mahesh Singh Son Of Late Kundal Singh R/O Village- Bishunpura,
P.S.- Bihta ,District- Patna
... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar, Advocate
For the Opposite Party/s : Mr. Lalan Kumar, A.P.P.
Mr. Kumar Gaurav, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 20-03-2024 Heard the parties.

2. This application has been filed for quashing the order dated 05.03.2020 whereby cognizance has been taken against the petitioner for offence under Section 420 of the Indian Penal Code passed by Judicial Magistrate, 1st Class, Danapur, Patna in connection with Complaint Case No. 2180 (C) of 2019 and summon was issued to the petitioner.

3. The prosecution case, in brief, is that on 28.08.2019 when complainant was constructing boundary over the land bearing Khata No. 132, Plot No. 992, area 38 Decimal, Mauza- Bishmbharpur and Khata No. 83, Plot No. 390, area 36 Decimal, Mauza- Srirampur, one Manikant Yadav, ASI of Bihta Police Station came there and stopped the construction work and asked him to be present in the office of Circle Officer, Bihta



on 31.08.2019. When the complainant went to the Office of Circle Officer, Bihta, then he came to know that on the basis of a false compromise petition containing forged signature of the complainant, Title Suit No. 89 of 2011 was withdrawn.

4. Learned counsel for the petitioner submits that opposite party No. 2 is own uncle of the petitioner and on account of dispute related to the property, present false and concocted criminal case has been instituted against the petitioner. He submits that the land in question bearing Khata No. 132, Plot No. 992, area 38 Decimal, Mauza- Bishmbharpur and Khata No. 83, Plot No. 390, area 36 Decimal, Mauza- Srirampur i.e. total about 24 Kattha land in which about 4 kattha land was encroached by the electricity department. On negotiation, a joint compromise petition dated 15.11.2015 was filed in Title Suit No. 89 of 2011 in which the complainant accepted 9 kattha land. He next submits that along with the complainant, complainant's son-in-law namely, Vishal Priyadarshi and uncle of son-in-law namely, Arvind Kumar Singh have also signed on the compromise petition in question. On the basis of the said compromise petition dated 15.11.2015, petitioner withdrew the Title Suit No. 89 of 2011 from the court of Sub-Judge, Danapur and after withdrawal of the same,



complainant sold his share of land *vide* Sale Deed No. 16162 dated 11.12.2018. On 28.08.2019, the petitioner received information that the complainant has forcibly started construction on boundary on the land of the petitioner for which Section 144 Cr.P.C. proceeding was initiated vide Case No. 286 (M) of 2019 and the same was converted into proceeding under Section 145 Cr.P.C. vide order dated 21.10.2019. He further submits that from bare perusal of the complaint petition, it is apparent that no offence under Section 420 of the Indian Penal Code is made out against the petitioner. There is complete absence of ingredients of cheating. He further submits that in view of the case of *State of Haryana v. Bhajan Lal, AIR 1992 SC 604*, where the allegations made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the petitioner. It is settled law that for constituting an offence under Section 420 of the Indian Penal Code, there has to be fraudulent and dishonest intention from the very beginning. In this case, there is no allegation that this petitioner had fraudulently or dishonestly induced the complainant to deliver any property or altered or destroyed the whole or any part of the property. Hence, no case is made out against the



petitioner under Section 420 of the Indian Penal Code. Present criminal proceeding has been initiated with an ulterior motive for wreaking vengeance on petitioner due to land dispute and as such, continuation of criminal proceeding would amount to abuse of the process of court.

5. However, learned counsel for the opposite party No. 2 vehemently opposed the submission made on behalf of the petitioner and submits that on the basis of false and fabricated compromise petition containing false signature of the complainant, the Title Suit No. 89 of 2011 was withdrawn. He next submits that the aforesaid title suit which was filed by the petitioner without issuance of any summon or opportunity of filing written statement, the same was withdrawn on the basis of false and fabricated compromise petition containing false signature of the complainant. As such, there are sufficient materials available to take cognizance against the petitioner and no interference is warranted by this Hon'ble Court at this stage.

6. Having heard learned counsel for the parties and from perusal of the F.I.R. it would manifest that opposite party No. 2 is own uncle of the petitioner. It is also an admitted position that there is land dispute between the parties and the Title Suit No. 89 of 2011 was withdrawn on the basis of the



compromise petition which was duly signed and filed in 2015. After a lapse of three years the present compliant has been filed. Petitioner has not derived any direct or indirect benefit from the alleged Act. Offence of forgery requires preparation of a false document with the dishonest intention of causing damage or injury. There is no such allegation in the entire complaint petition that this petitioner derived any benefit out of it. In the entire compliant petition there is no allegation that there was any fraudulent or dishonest intention from the very beginning. The allegations made in the complaint petition does not attract the ingredients of cheating under Section 420 of the Indian Penal Code. Pursuant to the aforesaid compromise petition or the withdrawal of the Title Suit No. 89 of 2011, no any property was delivered to the petitioner and as such, in absence of ingredients of cheating, continuation of criminal proceeding would amount to abuse of the process of court.

7. In view of the foregoing discussions, for the end of justice and to prevent the abuse of the process of court, this quashing application is allowed and order dated 05.03.2020 passed by Judicial Magistrate, 1st Class, Danapur, Patna in connection with Complaint Case No. 2180 (C) of 2019 is, hereby, quashed.



8. This quashing application stands allowed.

(Prabhat Kumar Singh, J)

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