

Arising Out of PS. Case No.-10447 Year-2022 Thana- PATNA COMPLAINT CASE District- Patna

- Petitioner/s

Versus

- Opposite Party/s

For the Petitioner/s : Sri N.K. Agarwal, Sr. Advocate
Sri Sanjeet Kumar, Advocate
Sri Piyush Anand, Advocate
For the Opposite Party/s : Sri Tarun Prasad Mandal, A.P.P.

9 20-06-2024 1. Heard Sri N.K. Agarwal learned Senior Counsel for the petitioners assisted by Sri Sanjeet Kumar learned Advocate, learned A.P.P. for the State and learned counsel for the opposite party no. 2/complainant.

2. The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 406 and 468 of the Indian Penal Code.

3. Learned Senior Counsel for the petitioners submits that petitioners have been falsely implicated in the instant case by



the opposite party no. 2. It is further submitted that since the opposite party no. 2 is having grudges against the petitioners as they are continuing with the committee on ad hoc basis as such the instant complaint case came to be instituted 17 years after the alleged occurrence. It is next submitted that the opposite party no. 2 alleges that he is member of Christ Church, Patna, Diocese of the Church of North India. Further, Christ Church, Patna has movable and immovable properties which are under the control of the committee duly elected by the Church of North India. Further, the accused persons including the petitioners are office-bearers, members, Bishops and Secretary of the Committee. It is next alleged that Philip Phembual Marandi fraudulently transferred the immovable property of the Church situated at North East of Gandhi Maidan, Patna by way of registered lease of 35 years in favour of his wife, namely, Mrs. Naomi Lily Murmu (petitioner no. 1). It is also alleged that no election of the committee has been held and the committee is being run on basis of ad hocism by Bishop Franshis Hansda. Further crores of rupees have been misappropriated based on the fraudulent lease deed.

4. Learned Senior Counsel for the petitioners submits that in the nature of allegation as alleged, it would manifest that the opposite party no. 2 is basically aggrieved by the fact that he is not a member of the committee which governs the property of the



Church in Bihar. It is further submitted that though the opposite party no. 2 alleges that the property of the Church was leased in favour of the petitioner no. 1 by her husband but then the said lease was executed in the year 2004 in the name of the Secretary of the Diocesan Educational Society, Bhagalpur and since petitioner no. 1 was the Secretary of the Committee at the relevant point of time as such the lease was registered in her name. It is thus submitted that the lease was not registered in the name of the wife of Ms. Philip Phembual. It is next submitted that the alleged lease was executed in the year 2004 and the instant complaint case came to be instituted in the year 2022 i.e. 17 years after the occurrence which prima facie demonstrates that for ulterior reason the instant complaint case has been instituted. It is also submitted that the lease was executed for educational purpose for a period of 35 years and to construct the proposed school building. It is further submitted that if the opposite party no. 2 was aggrieved by the act of the accused persons in that event the opposite party no. 2 ought to have complained to the Church of North India, instead of filing a criminal case.

5. Learned A.P.P. for the State and learned counsel appearing on behalf of the opposite party no. 2 opposed the prayer for anticipatory bail of the petitioners but then are not in a position to rebut the submissions of the learned Senior Counsel for the



petitioners that the instant complaint case came to be instituted 17 years after the lease deed was executed. It is further submitted that a complaint was made to the Church but then no action was taken on which learned Senior Counsel for the petitioners submits that this amply demonstrates that the Church was not aggrieved by the conduct of the accused persons.

6. Considering the submissions made by the learned Senior Counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.5,000/- (Rupees Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Complaint Case No. 10447 of 2022, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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