

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1449 of 2019

Arising Out of PS. Case No.-701 Year-2017 Thana- MUZFFARPUR COMPLAINT CASE
District- Muzaffarpur

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DR. PARWEZ AKHTAR S/o Late Noorul Hoda R/o Mohalla- Barhampura,
P.S.- Barhampura, District- Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Md. Faizuddin S/o Late Md. Usman R/o village- Morenisf, P.S.- Maniyari,
District- Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Dubey Mr. Kumar Gaurav Mr. Shashank Kashyap
For the Respondent/s	:	Mr. Raj Ballabh Singh Dr. Pawan Kumar

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 22-08-2024

Heard learned counsel for the petitioner and
learned counsel for the respondents.

2. This revision petition has been preferred by
the applicant being aggrieved with the order dated 29.08.2019
passed by the Additional District and Sessions Judge-XIV-cum-
A.C.J.M.-XIII, Muzaffarpur in Criminal Revision No. 153 of
2017, whereby and whereunder the learned Additional Sessions
Judge remitted the matter back to the Trial Court to conduct



further inquiry into the matter.

3. The fact of the case is that the original complainant Noorul Hoda (father of the petitioner) filed a Complaint Case No. 701 of 2017 against the accused persons alleging therein that the accused persons in connivance with each other with a view to grab the land in dispute which belonged to the complainant executed a sale deed dated 02.03.2017 in favour of accused nos. 10 and 11 and another sale deed has been executed by the accused no. 1 in favour of accused nos. 10 and 11 in the capacity of power of attorney of other accused persons. When this fact came to the knowledge of the complainant, he obtained certified copy of the sale deed. Thereafter, he filed the complaint case before the concerned Trial Court.

4. The learned A.C.J.M.-cum-Sub-Judge-XIV, Muzaffarpur after recording the statements of witnesses took cognizance on 18.07.2017 for the offence punishable under Sections 417, 465, 467 and 120 (B) of the Indian Penal Code against the accused persons and summons were issued to the accused persons.

5. Being aggrieved with the said Order of cognizance, the opposite party no. 2 filed a Criminal Revision



bearing no. 153 of 2017 before the learned Court of Sessions Judge, Muzaffarpur. The learned Sessions Judge vide impugned order dated 29.08.2019 allowed the said petition. The Order dated 17.07.2018 passed by the learned court below in Complaint Case no. 701 of 2017 was set aside and the matter was remitted back to the concerned Trial Court to conduct further inquiry into the matter. Hence, this revision petition has been preferred by the son of the original complainant.

6. Learned counsel for the petitioner submits that at the time of passing of the impugned order the original complainant had already been died and without impleading the petitioner herein, the impugned order has been passed by the learned Sessions Court. It is further argued by learned counsel that on the one hand, the learned Sessions Court remitted back the matter to the Trial Court with direction to conduct further inquiry into the matter and pass a fresh order in accordance with law on the basis of facts and materials brought on record after giving an opportunity of hearing to the opposite party. On the other hand, the learned Sessions Court has given his verdict on merit of the case by discussing the judgment of different courts. In this way, the court has exceeded his jurisdiction.

7. The learned counsel for the opposite party



gave support to the impugned order passed by the learned Sessions Court.

8. Heard both the counsels.

9. Perused the impugned order as well as the other materials placed on record. Bare perusal of the impugned Order clearly shows that after referring the various judgments passed by this Court as well as other Courts and further discussing the nature of the case, the learned Sessions Judge gave his verdict on merit of the case and set aside the order dated 17.07.2018, even after that the learned Sessions Judge remitted back the matter to the concerned Trial Court with direction to conduct further inquiry and pass a fresh order in accordance with law.

10. Considering the above facts and circumstances of the case, it would be appropriate to dispose of this revision petition affirming the second part of the impugned order i.e. for directing the Trial Court to conduct a further inquiry into the matter and pass a fresh order in accordance with law on the basis of facts and materials brought on record after giving opportunity to the complainant.

11. However, it is made clear that the other observation made by the learned Sessions Judge in the



impugned order will not take further effect to the Trial Court while passing the fresh order.

12. With the above observation, this revision petition is partly allowed.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.08.2024
Transmission Date	29.08.2024

