

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51291 of 2015

Arising Out of PS. Case No.-344 Year-2014 Thana- ARA NAWADA District- Bhojpur

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1. Phul Sundari Devi, Wife of Deodhari Singh
 2. Deodhari Singh, son of Late Basawan Singh
Both resident of Village- Keshopur, P.O. and P.S. Barahara, District Bhojpur.
 3. Sushila Devi, wife of Sri Santosh Kumar Rai
 4. Rajnish Kumar Rai, son of Sri Ramagya Rai
 5. Anju Devi, wife of Sri Jai Shankar Rai
 6. Ramawati Devi, wife of Sri Jainath Rai
 7. Hare Ram Rai, son of Sri Chandeshwar Rai.
 8. Rajesh Kumar Rai, son of Sri Shiv Lagan Rai.
All resident of Village- Bhakura, Post Lauhar Pharma, P.S. Aramabashil,
District Bhojpur.
 9. Hanuman Singh, son of Late Kardhani Singh, resident of Village Matiyara
Post and P.S. Distret Bhojpur.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Krishan Kumar Singh, son of Late Bhagwat Singh, resident of Village-
Keshopur, P.O. and P.S. Barahara, District Bhojpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh, Adv.
For the Opposite Party/s : Mr. Nand Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 03-04-2025 At the outset, it is submitted by learned counsel for the petitioners that the petitioner nos. 1 and 2 have died after filing this petition so their names may be deleted from this petition and their death certificates are available with him.

2. Having considered the aforesaid submissions, let the name of petitioner nos. 1 and 2 be removed from this



petition.

3. The instant criminal miscellaneous petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') with a prayer to quash the order dated 05.08.2015 passed by the court of learned Chief Judicial Magistrate, Bhojpur, Ara, in connection with Ara Nawada P.S. Case No. 344 of 2014 whereby the cognizance of the offences under Sections 420, 467 and 468 read with Section 34 of the Indian Penal Code (in short 'IPC') has been taken against the petitioners.

4. Mr. Manoj Kumar Singh, learned counsel appearing for the petitioners submits that from the entire allegations levelled by O.P. No.2 in his typed complaint which was sent to police for investigation no offence of cheating and forgery is made out against the petitioner. The main allegation is of transferring some lands which was subject matter of a partition dispute by the petitioner no.1 namely, Phul Sundari Devi (now deceased) in favour of the petitioners namely, Ramawati Devi, Sushila Devi, Rajnish Kumar Rai and Anju Devi by executing four sale deeds and in that transactions late Phul Sundari Devi's husband who is also now no more played a role of an identifier and other petitioners were witnesses in the execution of said sale



deeds, so, the main allegation of transferring the lands in question during the pendency of a Partition Suit No. 211 of 2002 is against the co-accused Phul Sundari Devi who is presently no more and as per the FIR a contempt proceeding was initiated against the accused but the same has been disposed of, so, if the entire allegations made in the FIR are taken into account even then no offence is made out against the petitioner nos. 3 to 9 and the learned court below has wrongly taken cognizance of the alleged offences punishable under Sections 420, 467, 468 read with Section 34 of the I.P.C. as there is no even *prima facie* evidence to show the commission of the offence of forgery as well as cheating by the petitioner nos. 3 to 9. It is further submitted that the cognizance order which is under challenge in this petition has been stayed by this court vide order dated 03.07.2019 and thereafter there is no progress in the trial of the petitioners and the same is at initial stage.

5. No one appears on behalf of O.P. No.2.

6. Though, learned APP has vehemently opposed this petition but fairly accepted that the main allegation is of transferring the land in question during pendency of a civil suit by the petitioners no.1 and 2 (now deceased).

7. Considering the aforesaid submissions and having



gone through the order impugned and relevant materials, this court is of the view that the allegations levelled in the FIR which is based on a typed application filed by the O.P. No.2 mainly attract a civil wrong on the part of petitioner nos. 1 and 2 (now deceased) and if the entire allegation made in the FIR is taken to be true even then no offence of cheating or forgery even *prima facie* is made out against the petitioner nos. 3 to 9 and subjecting these petitioners to trial for the alleged offences would be complete harassment to them as well as an abuse of the process of the court. Hence, the order impugned taking cognizance of the alleged offences against the petitioners no. 3 to 9 is hereby set aside and the instant petition stands allowed.

(Shailendra Singh, J)

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