

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11268 of 2021

Arising Out of PS. Case No.-525 Year-2019 Thana- PATNA COMPLAINT CASE District-
Patna

=====

CHANDRA BHUSHAN SINGH @ CHANDRA BHUSHAN SHARMA Son
of Late Binda Singh Resident of Village - Nima, P.S. - Dhanarua, District -
Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rahul Kumar Son of Late Sidhnath Singh Resident of Village - Nima, P.S.-
Dhanurua, District - Masuarhi

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Tej Pratap Singh, Advocate
For the Opposite Party/s : Mr. Ajit Kumar, APP

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 04-12-2025

Heard Mr. Tej Pratap Singh, learned counsel
appearing on behalf of the petitioner and Mr. Ajit Kumar,
learned APP for the State.

2. The petitioner has preferred the application under
Section 482 Cr.P.C. / 528 BNSS for quashing of the order dated
20.02.2020 passed in Complaint Case No.525(C)/2019, by the
learned Sub-Divisional Judicial Magistrate, Masaurhi, by which
he has taken cognizance of the offences under Sections 193,
420, 468 and 471 of the Indian Penal Code. He further seeks
quashing of entire proceeding in connection with Complaint
Case No.525(C)/2019.

3. Brief facts of the case are that dispute arises out of



a piece of land, relating to a property located in village Kadimpur Nima (now known as Nima), Paragna Sandha, P.S. Massaurhi (now Dhanarua), District Patna, appertaining to Khata No.231, Khesra Nos.1489 and 1490. Petitioner claims himself to be the descendant of one late Hittan Singh, in whose share, the aforesaid land came into possession as per the judgment and decree passed in Title Partition Suit No.35 of 1924. The opposite party no.2/complainant is also descendant of said late Hittan Singh. The petitioner was in peaceful possession of the said land, over which he is residing in his ancestral paucca building. The complaint Case No.525(C)/2019 was instituted on 21.09.2019 by the complainant/opposite party no.2, alleging therein that the petitioner has forged/maunpulated the document relating to Title Suit No.35 of 1924, showing the land/property in issue to be his ancestral land for wrongful gain and obtained order in his favour in measurement case being MC No.60/2016-17 and BLDR Case No.62/2017-18, filed by the complainant.

4. Learned counsel appearing on behalf of the petitioner submitted that in course of hearing in the aforesaid cases, filed by the complainant, the petitioner had also produced certified copy of the judgment and decree passed in Title Suit



No.35 of 1924 on 22.05.2018 to show that no interpolation of any kind or manner was made in the judgment and decree. Learned counsel submitted that in fact the opposite party no.2 is own *Gotia* and he is indulged in filing frivolous cases against the petitioner one after other. O.P. No.2/complainant had filed of CWJC No.3956 of 2018 and MJC No.4501 of 2018. O.P. No.2 has also filed a writ petition being Criminal Writ Jurisdiction No.1117 of 2019 against the petitioner for a direction to the respondents to make an inquiry under Section 340 of Cr.P.C. in which also the same allegations were made against the petitioner. Suppressing the said information what has happened after the complaint was filed before the concerned Judicial Magistrate having jurisdiction, O.P. No.2 has resorted to file another complaint to drag the petitioner on false accusation. Learned counsel further submitted that the learned Magistrate in the most mechanical manner without perusing all the materials on record proceeded to take cognizance *vide* order dated 20.02.2020 under Sections 193, 420, 468 and 471 of the IPC. On these grounds, learned counsel submitted that the order taking cognizance is fit to be set aside and quashed including the entire criminal proceeding arising out of Complaint Case No.525(c)/2019.



5. O.P. No.2 is absent.

6. Learned APP appearing on behalf of the State submitted that *vide* order dated 14.07.2025, this Court passed the order, staying the further proceeding pending in the district court concerned in respect of the complaint No. 525(c)/2019. He further submitted that primarily the present dispute arises out of family property, over which, both the parties claim their respective right. The learned District Court while taking cognizance of the offence has not committed any error of law, considering the fact that he has taken note of each and every material which forms part of the record, although he has shown his opinion that for such matter, resorting to criminal prosecution will not serve the purpose as such dispute can be settled outside the Court.

7. Having considered the rival submissions made on behalf of the parties, before proceeding to pass an order, I find it apt to reproduce the provisions of Sections 468 and 471 of IPC under which, the learned Sub Divisional Judicial Magistrate concerned has taken cognizance of the offence *vide* order dated 20.02.2020.

*“468. Forgery for purpose of cheating.
—Whoever commits forgery, intending that the
[document or electronic record forged] shall be
used for the purpose of cheating, shall be punished
with imprisonment of either description for a term*



which may extend to seven years, and shall also be liable to fine.

471. Using as genuine a forged document or electronic record.—Whoever fraudulently or dishonestly uses as genuine any [document or electronic record] which he knows or has reason to believe to be a forged [document or electronic record], shall be punished in the same manner as if he had forged such [document or electronic record].”

8. The above sections relate to Chapter XVIII of the Indian Penal Code which deals with offences relating to document and to property marks. Forgery has been defined under Section 463 which reads as follows:-

“463. Forgery.— Whoever makes any false document or false electronic record or part of a document or electronic record, with intent to cause damage or injury], to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.”

9. Making a false document has been defined under Section 464 which reads as under:

“464. Making a false document.—[A person is said to make a false document or false electronic record—

First.—Who dishonestly or fraudulently—

(a) makes, signs, seals or executes a document or part of a document;

(b) makes or transmits any electronic record or part of any electronic record;

(c) affixes any 4[electronic signature] on any electronic record;

(d) makes any mark denoting the execution of a document or the authenticity of the [electronic signature], with the intention of causing it to be believed that such document or part of document, electronic record or [electronic signature] was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or

Secondly.—Who without lawful authority,



dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with 4[electronic signature] either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his [electronic signature] on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration.]”

10. Punishment for forgery is contained in Section

465 which reads as under:

“465. Punishment for forgery.—Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both”

11. Section 468 relates to forgery for purpose of cheating. Section 471 relates to commission of forgery in respect of uses as genuine any document or electronic record, which he knows or has reason to believe to be a forged document or electronic record. Section 468 is not bailable and Section 471 is bailable, however, both the sections are non-compoundable.

12. Section 26 of IPC defines what is reason to believe, which reads as under:

“26. “Reason to believe”.—A person is said to have “reason to believe” a thing if he has sufficient cause to believe that thing but not otherwise.”

13. I find that the learned SDJM has taken notice of all



the documents but has not taken into consideration that opposite party no.2 has filed Cr.W.J.C. No.1117 of 2019 before this Court or he may have suppressed the same fact from the court and apparent absence of the said information in the complaint filed by the O.P. No.2 before the learned SDJM on 21.09.2019, I find that before taking cognizance, learned SDJM was required to arrive at his own finding and satisfaction and record his reason to believe if he has sufficient cause to believe that the offense as alleged was committed.

14. Reason to believe has been construed by the Apex Court in case of *A.S. Krishnan v. State of Kerala*, reported in (2004) 11 SCC 576. I find it apt, to reproduce para 9 of the said judgment which reads as under:

“8. The essential ingredients of Section 471 are : (i) fraudulent or dishonest use of document as genuine, and (ii) knowledge or reasonable belief on the part of person using the document that it is a forged one. Section 471 is intended to apply to persons other than the forger himself, but the forger himself is not excluded from the operation of the section. To attract Section 471, it is not necessary that the person held guilty under the provision must have forged the document himself or that the person independently charged for forgery of the document must of necessity be convicted, before the person using the forged document, knowing it to be a forged one can be convicted, as long as the fact that the document used stood established or proved to be a forged one. The act or acts which constitute the commission of the offence of forgery are quite different from the act of making use of a forged document. The expression “fraudulently and dishonestly” are defined in Sections 25 and 24 IPC respectively. For an offence under Section 471, one of the necessary ingredients is fraudulent and dishonest use of the document as genuine. The act need not be both dishonest and fraudulent. The use of document as contemplated by Section 471 must be a



voluntary one. For sustaining conviction under Section 471 it is necessary for the prosecution to prove that the accused knew or had reason to believe that the document was a forged one. Whether the accused knew or had reason to believe the document in question to be forged has to be adjudicated on the basis of materials and the finding recorded in that regard is essentially factual.

9. Under IPC, guilt in respect of almost all the offences is fastened either on the ground of "intention" or "knowledge" or "reason to believe". We are now concerned with the expressions "knowledge" and "reason to believe". "Knowledge" is an awareness on the part of the person concerned indicating his state of mind. "Reason to believe" is another facet of the state of mind. "Reason to believe" is not the same thing as "suspicion" or "doubt" and mere seeing also cannot be equated to believing. "Reason to believe" is a higher level of state of mind. Likewise "knowledge" will be slightly on a higher plane than "reason to believe". A person can be supposed to know where there is a direct appeal to his senses and a person is presumed to have a reason to believe if he has sufficient cause to believe the same. Section 26 IPC explains the meaning of the words "reason to believe" thus:

"26. 'Reason to believe'.—A person is said to have 'reason to believe' a thing, if he has sufficient cause to believe that thing but not otherwise."

10. In substance, what it means is that a person must have reason to believe if the circumstances are such that a reasonable man would, by probable reasoning, conclude or infer regarding the nature of the thing concerned. Such circumstances need not necessarily be capable of absolute conviction or inference; but it is sufficient if the circumstances are such as creating a cause to believe by chain of probable reasoning leading to the conclusion or inference about the nature of the thing. These two requirements i.e. "knowledge" and "reason to believe" have to be deduced from various circumstances in the case."

15. In view of the discussions made hereinabove and the law laid down by the Apex Court as referred above, I find that guilt in respect of almost all the offences is fastened either on the ground of "intention" or "knowledge" or "reason to



believe" here relating to Section 471 IPC, consideration has to be made with the expressions "knowledge" and "reason to believe". "Knowledge" is an awareness on the part of the person concerned, indicating his state of mind. "Reason to believe" is another facet of the state of mind. "Reason to believe" is not the same thing as "suspicion" or "doubt" and mere seeing also cannot be equated to believe. Essential ingredients of Section 471 are (I) fraudulent or dishonest use of document or as genuine; (II) knowledge or reasonable belief on part of the person, using the document that it is a forged one, therefore, the Act need not be both dishonest and fraudulent. Further the suppression of very fact from the court that O.P. NO.2 had filed Cr.W.J.C. No.1117 of 2019 before this Court leaves no manner of doubt that petitioner has not only been left to face the false criminal proceeding and at the same time, in absence of ingredients of Section 420, 468, 471 and 193, no case is made out against the petitioner. Accordingly, the order taking cognizance dated 20.02.2020 passed by the learned Sub-Divisional Judicial Magistrate, Masaurhi, and the entire proceeding in connection with Complaint Case No.525(C)/2019 are hereby quashed and set aside with respect to the petitioner.

16. The application under Section 482 Cr.P.C.



stands disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	08.12.2025
Transmission Date	08.12.2025

