

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80317 of 2018

Arising Out of PS. Case No.-2138 Year-2017 Thana- VAISALI COMPLAINT CASE
District- Vaishali

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CHANDRAMA DUBEY AAZAD @ C. D. AAZAD @ CHANDRAMA DUBEY Son of Late Shiv Dayal Duvey Resident of Mohall-Choudhary Mobark Ali Mahajantoli , Police Station-Hazipur Town, District-Vaishali at Hajipur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Aashutosh Kumar Mishra Son of Late Janardan Mishra, Resident of Mohall-Choudhary Mobarak Ali Mahajantoli , Police Station-Hazipur Town District Vaishali at Hajipur
3. Priti Kumari Devi, Wife of Rajesh Prasad Resident of Village-Hematpur, Police Station-Dighwara, District-Saran At Chapra
4. Rajesh Prasad Son of Bhagwat Prasad Resident of Village-Hematpur, Police Station-Dighwara, District-Saran At Chapra
5. Aanand Kumar Son of Rajnath Choudhary Resident of Village-Jadhuwa, Police Station-Industrial Area, District-Hajipur At Vaishali
6. Most Meena Devi Wife of Late Devendra Rai Resident of Village-Kowari Buzurg, Police Station-Ganga Bridge, District Hajipur at Vaishali
7. Anita Devi Wife of Dharmendra Singh @ Dharmendra Kumar Singh, Village-Chakwara, Police Station-Hajipur Town, District-Hajipur at Vaishali
8. Uday Chand Singh Son of Late Rambharos Singh, Resident of village-Jadhuwa, Police Station-Hajipur Town, District-Hajipur at Vaishali
9. Manoj Kumar Singh Son of Nand kumar Singh Resident of village-Harpur Police Station-Ekma, District-Saran at Chapra
10. Ranjeet Singh @ Ranjeet Kumar Singh @ Ranjeet Don Son of Late Parasnath Singh Resident of village-Belwar, Police Station-Raghnathpur, District-Siwan
11. Vikki Kumar Son of Hari Shankar Prasad, Resident of Hajipur Mahajantoli, Police Station-Vaishali at Hajipur
12. Vijay Kumar Rai Son of Rajeshwar Rai Resident of village-Akilabad, Police Station-Hazipur sadar, District-Vaishali at Hajipur

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Radha Mohan, Advocate
		Mr. Sachin Kumar, Advocate
For the Opposite Party/s :		Mr. Satyendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE PRAVEEN KUMAR



ORAL ORDER

2 16-07-2026 Heard the learned counsel for the petitioner and the learned APP for the State.

2. The present application has been preferred by the petitioner for quashing of the order dated 27.08.2018 passed by learned Additional Chief Judicial Magistrate-VIII, Vaishali at Hajipur in Complaint Case No. 2138 of 2017 whereby the complaint of the petitioner has been dismissed under the Provisions of Section 203 Cr.P.C.

3. The prosecution case, in brief, is that Complaint Case No. 2138 of 2017 was filed by the complainant, Chandrama Dubey Aazad @ C.D. Aazad, alleging that the land in question was acquired by his wife from her issueless uncle Late Raghunath Mishra through a Will and was also covered by the order and the decree passed in Probate Case No. 09 of 2002 by the learned Additional District & Sessions Judge-VI, Hajipur. It is alleged that accused Aashutosh Kumar Mishra, who was not related to the complainant's wife, falsely claimed himself to be the maternal grandson (Nati) of Late Raghunath Mishra and executed sale deeds in favour of accused nos. 2, 4, 5, 6 and 7 in violation of the probate decree. It is further alleged that the said accused persons forcibly took possession of the land with the help of Ranjeet Singh @ Ranjeet Don, who allegedly received



Rs. 5 Crores for the said purpose and when the complainant objected to such possession, he was abused, assaulted and threatened with dire consequences.

4. Learned counsel for the petitioner has submitted that the accused persons had intention to cheat from the very inception and a forged document was created and the same is a criminal act in order to fulfil their ill intention. It has further been submitted that the essential ingredients of the offences alleged in the complaint are made out against the accused persons. It has further been submitted that the learned Magistrate passed the impugned order in a mechanical manner without applying their judicial mind. It has lastly been submitted that a *prima facie* case is made out in the facts and circumstances of the case.

5. Learned APP for the State has opposed the prayer of the petitioner.

6. From perusal of the records, it appears that the case is primarily civil in nature. Upon query it was submitted on behalf of the petitioner that a civil suit as regards the cancellation of the sale deed has already been filed in the competent court of civil jurisdiction. In the facts and circumstances of the case, the appropriate remedy available to



the petitioner was to seek relief before the civil court, which has already been availed. Therefore, the learned court below has committed no error in holding that the dispute is of civil nature and the same can be adjudicated only by the competent court of civil jurisdiction.

7. In view of the facts and circumstances of the case, the present application is devoid of merit and is, accordingly, dismissed.

(Praveen Kumar, J)

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