

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46957 of 2023

Arising out of PS. Case No.-227 Year-2019 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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1. Surendra Kumar Patel @ Pintu Son of Late Mahavir Singh @ Mahaveer Patel Resident of Village - Ghasikatra, PS- Tiwaripur, Distt- Gorakhpur UP at Present Village- Bhelahi, PS- Palnwa, Distt- East Champaran
 2. Draupadi Devi @ Dropati Devi Wife of Late Mahavir Singh @ Mahaveer Patel Resident of Village - Ghasikatra, Ps- Tiwaripur, Distt- Gorakhpur UP At Present Village- Bhelahi, Ps- Palnwa, Distt- East Champaran
 3. Jeetan Singh @ Jitan Singh Son of Ramagya Singh Resident of Village - Dangipur, Po- Lalpur, Ps- Khorabad, Distt- Gorakhpur, UP
 4. Sharda Devi @ Sharda Singh Wife of Jeetan Singh @ Jitan Singh Resident of Village - Dangipur, Po- Lalpur, Ps- Khorabad, Distt- Gorakhpur, UP

... .. Petitioner/s

Versus

1. The State of Bihar
2. Asha Devi Wife of Rajeshwar Prasad Resident of Village - Bhelahi, Ps- Palnwa, Distt- East Champaran Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dineshwar Pandey, Adv.
For the Opposite Party/s : Mr. Atul Chandra, APP

CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL JUDGMENT

Date : 25-06-2026

Heard learned counsel for the petitioners, learned counsel for the Opposite Party No. 2 and learned Additional Public Prosecutor for the State.

2. Petitioners seek quashing of the order of cognizance dated 18.01.2020 passed by learned Judicial Magistrate, 1st Class-VI, Raxaul, Motihari, East Champaran in Complaint Case No. 227



of 2019 by which he has taken cognizance under Sections 323, 341, 354, 379, 420, 504 and 120(B) of IPC.

3. The claim of the complainant is that he paid Rs. 12,18,000/- to the Petitioner No. 1 who agreed to sell him the land stating that he had been given the same in a will by his maternal grand-mother.

4. Learned counsel for the petitioners states that a deed was executed in 2012 where the Petitioner No. 1 sold his undivided share to the complainant. Maternal aunt of the petitioners filed a partition suit. In 2019, the complainant filed this case with the allegation that the petitioner had executed the sale deed stating that the property has come to him through a will but he never gave the document of will or probate.

5. Apparently, the complainant seems to be aware of the fact that the petitioners were selling his joint property and at the time of execution of sale deed he never insisted for the will. Thereafter, when the partition suit was filed he insisted upon the probate. Though the doctrine of caveat emptor has no application in criminal law but the remedy of the complainant lie in a civil suit. Moreover, if the petitioners have sold their undivided share to the complainant and if the same falls within the share of the petitioners, the complainant will have no issue. He will have



grievance only when the land sold to the complainant exceeds the share of petitioner No. 1 in the undivided property.

6. In that view of the matter no criminal case is maintainable in the facts and circumstances of the case, the order of cognizance dated 18.01.2020 passed by learned VI Judicial Magistrate, 1st Class, Raxaul, Motihari, East Champaran in Complaint Case No. 227 of 2019 by which he has taken cognizance under Sections 323, 341, 354, 379, 420, 504 and 120(B) of IPC is quashed so far as the petitioners are concerned.

7. Accordingly, the present petition is allowed.

(Ansul, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	

