
(2015) 05 PAT CK 0113
In the Patna High Court
Case No : Criminal Misc. No. 20140 of 2015

Habib and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 11-05-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 34, 419, 420, 467, 468
Registration Act, 1908 — Section 82
Transfer of Property Act, 1882 — Section 55

Citation : (2015) 4 PLJR 576

Hon'ble Judges : Ashwani Kumar Singh, J.

Bench : Single Bench

Advocate : Umesh Chandra Verma, for the Appellant; Mayanand Jha, for the Respondent

Judgement

Ashwani Kumar Singh, J.—Heard learned counsel for the petitioners and learned counsel for the State. The present application under Section 482 of the Code of Criminal Procedure has been filed for quashing the First Information Report of Motihari Town P.S. Case No. 82 of 2014 registered under Sections 419, 420, 467, 468 and 471 read with 34 of the Indian Penal Code.

2. The prosecution case is based on the written report submitted by the opposite party No. 2 before the Officer-in-Charge of Motihari Town Police Station, wherein it has been alleged that on 21.1.2013 petitioner No. 1 Md. Habib executed a sale deed in favour of petitioner No. 2 Mehrun Nessa and presented the same for registration in the office of the informant and got registered the sale deed bearing No. 1019/2013 in respect of a plot which belonged to "Kaishre Hind". The informant has further alleged that on the basis of wrong facts and false statement made with mala fide intention, the sale deed in question was got registered in utter violation of Section 82 of the Indian Registration Act, 1908 and Section 55 of the Transfer of Property Act, 1882.

3. Learned counsel for the petitioners has submitted that the father of petitioner No. 1 Md. Habib, namely, late Suleman Mian was actual title holder of the land in question. The title of his father over the land has been declared by the civil court of competent jurisdiction, which has not been up-set by any higher court. He has further submitted that the title in his favour has been recognized by the Anchal authorities and the authorities of Nagar Parishad. In that circumstance, the allegations made in the First Information Report by the District Sub-Registrar are not correct.

4. Be that as it may, at this stage, it is not proper for this Court to consider the defence of the petitioner for the purpose of quashing the First Information Report. The allegations made in the First Information Report do attract the ingredients of cognizable offence. The defence of the petitioners can be looked into by the investigating agency in course of investigation of the case and, if the investigating agency would be satisfied, it will be open for them to file final report before the Magistrate concerned. However, if the defence of the petitioners is not found true in course of investigation, the investigating agency may submit charge-sheet against the petitioners before the Magistrate concerned. In that case, the Magistrate concerned would pass appropriate orders in accordance with law on the basis of materials collected in course of investigation. Accordingly, the application is dismissed.