
(2000) 03 PAT CK 0029

In the Patna High Court

Case No : Criminal Miscellaneous No. 22423 of 1996

Laldeo Singh and Kuardeo Singh

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 15-03-2000

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 202, 482
Penal Code, 1860 (IPC) — Section 380, 448, 465, 467

Citation : (2000) 2 PLJR 454

Hon'ble Judges : S.N. Mishra, J

Bench : Single Bench

Advocate : Jagdish Prasad, for the Appellant; S.K.P. Sinha, for the Respondent

Final Decision : Dismissed

Judgement

S.N. Mishra, J.—In this application u/s 482 of Code of Criminal Procedure, Petitioners have prayed for quashing the order dated 10.6.96 taking cognizance of the offence punishable under Sections 380, 448, 465 and 467 of the Indian Penal Code against the Petitioners. The complainant-opposite party No. 2 filed a complaint on 29.9.95 to the effect that plot No. 1497 khata No. 277 area 2 1/2 decimal over which house is situated on the southern portion and adjacent to the said plot, there is house of one Rajendra Sah. The parti land of complainant situate on the north and on the east there is a public road. It is alleged that the said house was given to one Nagendra Tiwary on rent. It is alleged that eviction suit was filed which was decreed and ultimately, possession of the aforesaid land was given to the complainant pursuant to the judicial order passed by this Court on 14.6.95. It is alleged that after delivery of possession brother of the complainant has sold one decimal land from plot No. 1479 to accused person. It is also alleged that 9 decimals of land from plot No. 1470 of khata No. 344 was sold by Jagarnath Sahay co-accused. It is alleged that the said Jagarnath Sahay has already gifted his entire share to the Thakurbari in the year 1965 itself. It is alleged that co-accused, Jagarnath Sahay in order to deprive the property of the

complainant committed a forgery and prepared a forged document on the basis of which the Petitioners had purchased the same on 28.9.95 knowing that the land does not belong to Jagarnath Sahay. Accordingly, complainant filed a suit being Title suit No. 93/95 before the Munsif, Arrah wherein summons were issued to all the accused persons. It is alleged that after issuance of the notice, accused persons entered into the house of the complainant on 28.9.95 after breaking lock of the house of the complainant. On the basis of the said allegation, complaint case No. 623C/95 was registered. Learned Magistrate, on the basis of the allegation made in the complaint petition, S.A. of the complainant, including the evidence recorded u/s 202 Code of Criminal Procedure took cognizance of the alleged offence against the Petitioners. Learned Counsel for the Petitioners has challenged the order taking cognizance; firstly on the ground that the accused is own brother of the complainant and he has sold the land of his own share, as such, no offence said to be committed by the Petitioners. It is further stated that even if the allegation made in the complaint petition as well as evidence recorded u/s 202 Code of Criminal Procedure are taken on its face value, no criminal offence much less, the offence alleged has been made out, against the Petitioner. In opposition, however, learned Counsel for the complainant submits that admittedly the complainant was in possession of the land by virtue of the order passed by this Court and the accused person after committing forgery had sold the land and that too after evicting the complainant forcibly from the house in question.

2. In the light of the submission of the learned Counsel I have perused the materials on record including the order under challenge. It has been specifically stated in the complaint petition that the accused persons have already gifted the entire lands of his share as such they have left no interest in the property. It further appears that the possession of the land, in question, was given to the complainant pursuant to the order passed by this Court. After having heard learned Counsel for the Petitioners and going through the materials on record, I do not find any merit in this application. Accordingly, this application is dismissed. However before I part with this case I may observe that the case is of the year 1995, the learned Magistrate shall proceed in the matter on priority basis on the basis of the materials available on record in accordance with law.