
(2006) 11 PAT CK 0143

In the Patna High Court

Case No : Criminal Miscellaneous No. 9626 of 2004

Md. Khursheed Anwar

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 14-11-2006

Acts Referred:

Citation : (2007) 1 PLJR 399

Hon'ble Judges : S.C. Jha, J

Bench : Single Bench

Advocate : Nasrul Hoda Khan, for the Appellant; Bindhya Keshri Kumar for the O.P. and Mr. Jharkhandi Upadhaya for the State, for the Respondent

Final Decision : Dismissed

Judgement

S.C. Jha, J.—Heard the parties. This is an application for quashing the order dated 15.12.2003 passed by Sri Bhola Nath Tiwari, Judicial Magistrate, 1st Class, Muzaffarpur, in Tr. No. 665/2003 by which he directed the petitioner to deposit the gift deed dated 19.6.1993.

2. The complainant Anzarul Haque had brought a case against the accused Md. Khursheed Anwar who is petitioner here for bringing a forged and fabricated document of sale in his favour allegedly executed on 19.6.1993.

3. The complainant in the court below filed a petition to this effect that original gift deed challenged by him was lying with the petitioner. Since, the genuineness of the gift deed was challenged which is said to be lying with the petitioner, so a direction was sought from the court below for production of the aforesaid gift deed by the petitioner.

4. The learned trial court by the impugned order dated 15.12.2003 has allowed the petition and directed the petitioner for production of the aforesaid gift deed.

5. In course of argument, learned counsel for the petitioner has submitted that it would cause prejudice to the interest of the petitioner and the petitioner is facing

trial by way of pressure tactics. Further contention is that the father of the complainant had executed the gift deed in favour of the petitioner which is in his knowledge and for the purpose of production of the said gift deed, it is not desirable to compel him to produce the same at this stage.

6. Having considered the facts and circumstances and argument of the learned counsel for the petitioner, I feel that if the petitioner produces such gift deed for the purpose of verification of its genuineness, the case of the petitioner is not going to be adversely affected. There is also possibility of holding the document to be genuine and there is also possibility of discharge of the petitioner even before framing of the charge.

7. In the facts and circumstances, the court below has inherent power for calling for any document for the ends of justice and it cannot be said that there is any illegality or jurisdictional error in the impugned order. Rather, production of such gift deed would facilitate the ends of justice.

8. Admitted position is that the petitioner is having original gift deed with him, non-production of which would rather adversely affect the merit of the prosecution case.

9. In the facts and circumstances, I do not find any illegality or jurisdictional error in the impugned order which does not require any interference. In the result, this application is dismissed.