

(2025) 08 PAT CK 0856

In the Patna High Court

Case No : Criminal Miscellaneous No.6941 Of 2016

Sheela Sharma

APPELLANT

Vs

State Of Bihar and Ors

RESPONDENT

Date of Decision : 01-08-2025

Acts Referred:

Indian Penal Code, 1860 — Section 34, 380, 448, 506

Citation : (2025) 08 PAT CK 0856

Hon'ble Judges : Satyavrat Verma, J

Bench : Single Bench

Advocate : Patanjali Rishi, Pravin Kumar Sinha, P.K.Chaurasia, Deepak Kumar

Final Decision : Allowed

Judgement

Satyavrat Verma, J

1. Heard learned counsel for the petitioners, learned A.P.P. for the State and learned counsel appearing on behalf of the informant.
2. The petitioner no. 3, in compliance of the order dated 25.07.2025, is present in the Court.
3. Learned counsel appearing on behalf of the petitioners submits that the instant quashing application has been filed for quashing the order dated 10.11.2015 passed by the learned Chief Judicial Magistrate, Patna in Kotwali P.S. Case No. 207 of 2015, GR No. 2620 of 2015 whereby cognizance has been taken under Sections 448, 380, 506 and 34 of the Indian Penal Code against the petitioners.
4. Learned counsel for the petitioners further submits that the informant of the case, during pendency of the quashing application, died, as such, her legal heirs have been substituted. It is next submitted that original informant, namely, Smt. Prabha Sharma was own sister of Dr. Sheela Sharma who is petitioner no. 1 in the instant quashing application and petitioners no. 2 and 3 are sons of petitioner

no. 1. It is also submitted that informant instituted the aforesaid FIR with an allegation that Dr. Sheela Sharma along with her two sons, namely, Dr. Rahul Janak Sinha @ Rahul Kumar and Dr. Shantanu Sinha @ Shantanu Kumar and the builder, namely, Sushil Kumar Pansari, Director Jeevanshree Infrastructure Private Limited, have committed overt criminal acts for which they are liable to be punished under Sections 379, 424, 427, 440, 452, 453, 454, 455, 456, 120B and 34 of the Indian Penal Code in the background of her active resistance to the attempts of the aforementioned persons to grab her property and the deliberate inaction of the police hierarchy, she apprehends serious threat to her life and that of her family.

5. Learned counsel for the petitioners further submitted that from perusal of the allegation as alleged in the FIR, it would manifest that the same does not even remotely suggest that informant was own sister of the petitioner no. 1, rather an impression was created that criminals are trying to grab the property of the informant. It is next submitted that the police, after threadbare investigation, came to a considered conclusion that petitioners are innocent and, thus, submitted Final Form No. 250 of 2015 dated 16.08.2015 exonerating the petitioners of the allegation but then the learned trial court differing with the police report took cognizance under the aforementioned sections. Learned counsel also submits that it is pertinent to submit here that a title suit being Title Suit No. 1957 of 2014 has been instituted which is pending adjudication before the learned civil court in which plaintiff was the original informant who now stands substituted in the title suit also and the defendants were the petitioners herein apart from other sisters of the original informant. It is submitted that the property, in dispute, in the aforesaid title suit, was gifted to petitioner nos. 2 and 3 by their maternal grandmother by a registered gift deed dated 27.07.1982. It is further submitted that based on the gift deed, the lands were also mutated in the name of petitioner nos. 2 and 3 and they were in possession of the property when the instant dispute arose. It is fairly submitted that the dispute is purely civil to which a criminal colour has been given. It is next submitted that petitioners had entered into a registered development agreement with a builder, namely, Sushil Kumar Pansari and, as such, the builder also came to be implicated in the instant case with general, omnibus and vague allegations. It is also submitted that the police, after a threadbare investigation, came to a considered conclusion that petitioners are innocent and no criminal offence is made out in the nature of allegation as alleged in the FIR, but then the learned trial court differing with the police report without passing a reasoned order took cognizance in a mechanical manner. It is further submitted that if the title suit is decided in favour of the informant in that event the informant will get her share but if the title suit is decided in favour of the petitioners then the same would definitely cast an aspersion on the allegations as alleged in the FIR. It is next submitted that in the nature of allegations as alleged in the FIR, prima facie, none of the section of which cognizance has been taken is made out.

6. Learned APP for the State and the learned counsel appearing on behalf of the

informant opposed the quashing application but then the learned counsel appearing on behalf of the informant is not in a position to rebut the submissions of the learned counsel appearing on behalf of the petitioners that informant and petitioner no. 1 were own sisters and the dispute in the instant case is between the sisters on account of a gift deed executed by the mother of the petitioner no. 1 and the maternal grandmother of the substituted informant in favour of the petitioners no. 2 and 3 i.e. sons of petitioner no. 1 for which a title suit is pending adjudication.

7. After hearing the learned counsel for the parties, the Court comes to a considered conclusion that the dispute involved in the instant quashing application is completely civil in nature and in the nature of allegation as alleged, prima facie, no criminal offence is made out, as such, the order dated 10.11.2015 passed by the learned Chief Judicial Magistrate, Patna in Kotwali P.S. Case No. 207 of 2015, GR No. 2620 of 2015, whereby cognizance has been taken under Sections 448, 380, 506 and 34 of the Indian Penal Code against the petitioners, is hereby set aside.

8. Accordingly, the instant quashing application is allowed.

9. The personal appearance of the petitioner no. 3 is dispensed with.