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**(2018) 08 RAJ CK 0029**

**In the Rajasthan High Court**

**Case No : Criminal Miscellaneous Petition No. 1602 of 2018**

**Sohan Lal @APPELLANT@Hash State of Rajasthan & Ors.**

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**Date of Decision : 07-08-2018**

**Acts Referred:**

Code of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 120B, 419, 420, 467, 468, 471

**Citation : (2018) 08 RAJ CK 0029**

**Hon'ble Judges : VIJAY BISHNOI, J**

**Bench : Single Bench**

**Advocate : Shreyansh Mardia, V.S.Rajpurohit**

**Final Decision : Dismissed**

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## **Judgement**

This criminal misc. petition under section 482 CrPC is preferred on behalf of the petitioner with a prayer for quashing of FIR No.337/2011 lodged at

Police Station, Sadar Abu Road, District Sirohi for the offences punishable under sections 419, 420, 467, 468, 471/120-B IPC and all proceedings of

Cr. Case No.108/2012 pending in the Court of Judicial Magistrate, Abu Road, District Sirohi (for short "the trial court") qua the petitioner.

The impugned FIR is lodged at the instance of Tehsildar (Land Records), Abu Road, District Sirohi alleging therein that a land measuring 6 bighas and

8 biswas of village Daanvav, Tehsil Abu Road is recorded in the name of Rama and Laxman sons of Jora by caste Garasia. However, on 18.10.2011

Anda son of Jalamji by caste Bheel, resident of Bhoola Tehsil Pindwara sold some land to Noma son of Sona, by caste Bheel, and to Bhura son of

Chatra, both by caste Bheel, resident of Manpur, Abu Road through three separate sale-deeds by showing himself as power of attorney of Rama and

Laxman sons of Jora Garasia.

It is alleged that the so called power of attorney dated 24.09.2011, said to have

been executed by Rama and Laxman in favour of Anda, is forged one.

It is also alleged that in the said power of attorney, two persons viz. Deva Ram and petitioner Sohan Lal stood as witnesses, who had wrongly

identified the persons, who executed the disputed power of attorney in favour of Anda, as Rama and Laxman sons of Jora Garasia.

It is further alleged in the impugned FIR that when three registered documents along with disputed power of attorney were placed before the author

of the FIR for the purpose of sanction of mutation, at that time one Kunj Bihari Jha, Patwari was present, who, upon seeing the said power of

attorney, had stated that the photographs affixed on it, on the basis of which registered sale-deeds have been executed, are not of Rama and Laxman

sons of Jora Garasia to whom he personally knows.

It is also alleged that real Rama and Laxman had sold some part of their 6 bighas and 8 biswas of the land to some other person and mutation was

also sanctioned. In this respect, on searching, record of the same has also been found.

It is alleged that Anda prepared a forged power of attorney of Rama and Laxman, wherein Deva Ram and petitioner Sohan Lal had identified some

other persons as Rama and Laxman and on the basis of which, registered sale-deeds have been executed. Police after thorough investigation, have

filed charge-sheet against Anda, Deva Ram and petitioner Sohan Lal for the offences punishable under sections 419, 420, 467, 468, 471 and 120-B

IPC. Later on, the trial court also framed charges against the petitioner and other co-accused persons for the aforesaid offences and trial against them

is going on.

Learned counsel for the petitioner has argued that as a matter of fact, Rama and Laxman sons of Jora Garasia did not file any complaint regarding

execution of forged power of attorney and the impugned FIR has been lodged by a third person, who is a Tehsildar and, therefore, the same is liable to

be quashed.

It is also argued that as a matter of fact, the petitioner only stood as witness in the disputed power of attorney and is not beneficiary in any manner

and, therefore, the proceedings against him are liable to be terminated.

Learned counsel for the petitioner has placed reliance on a decision of Hon'ble Supreme Court in Mohammed Ibrahim & Ors. vs. State of Bihar

& Anr., (2009) 8 SCC 751.

Learned Public Prosecutor has opposed this criminal misc. petition and argued that the trial court has framed charges against the petitioner after

taking into consideration the prima facie evidence available against him in the charge-sheet and the trial is going on and, therefore, the impugned FIR

and the consequential proceedings pursuant to that is not liable to be set aside.

Heard learned counsel for the petitioner and learned Public Prosecutor and perused the charge-sheet.

During the course of investigation, the police concluded that as a matter of fact, the disputed power of attorney said to have been executed by Rama

and Laxman sons of Jora, by caste Garasia has not been executed by them and photographs of some other persons have been affixed on the said

power of attorney. The allegation against the petitioner is this that he had identified those other persons as Rama and Laxman sons of Jora Garasia.

From the material available on record, it is clear that the petitioner had identified wrong persons as Rama and Laxman sons of Jora Garasia at the time

of execution of power of attorney. In view of the material collected by the police during the course of investigation, it is clear that prima facie

involvement of the petitioner in commission of crime is established.

So far as the decision upon which the learned counsel for the petitioner has placed reliance in Mohammed Ibrahim & Ors. vs. State of Bihar & Anr.

(supra) is concerned, the same is of no help to the petitioner as the facts of the said case are clearly distinguishable.

In view of the above discussion, this Court does not find any case for quashing of the impugned FIR and the proceedings of Cr. Case No.108/2012

pending in the Court of Judicial Magistrate, Abu Road, District Sirohi.

Hence, the instant criminal misc. petition is dismissed.

Stay petition also stands dismissed.