

Ajay Kumar Thakur Vs. State of Bihar and anr

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Court : Patna

Decided On : Aug-22-2013

Appellant : Ajay Kumar Thakur

Respondent : State of Bihar and anr

Judgement :

IN THE HIGH COURT OF JUDICATURE AT PATNA Criminal Miscellaneous
No.41239 of 2007

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Ajay Kumar Thakur, son of Sri Mahendra Thakur, resident of At + P.S. Brahmpura, P.O. M.I.T. Muzaffarpur, District Muzaffarpur, at present Block Development Officer, Farbisganj, District Araria, the then Block Development Officer-cum- Circle Officer, Maner, P.S. Maner, Distt. Patna Petitioner/s Versus 1. The State of Bihar 2. Mithilesh Kumar Singh, son of late Ramanand Singh, resident of village Haldi Chapra, Nayka Tola, Maner, P.O. Ramnagar, P.S. Maner, Distt. Patna, at presently residing at Shiv Rolling Mill Campus, Matha Bandh, B Area, Deoghar, P.S. + District Deoghar, State Jharkhand Opposite Party/s

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Appearance : For the Petitioner/s : Mr. Bishnu Kant Dubey, Advocate For the State : Mr. C. Jawahar, A.P.P. For Opposite Party No.2 : Mr. Subodh Kumar Jha, Advocate Mr. Bidhan Chandra Jha, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH ORAL

JUDGMENT

Date:

22. 08-2013 The Petitioner seeks quashing of the entire proceeding including the order of cognizance dated 20.12.2005 passed by Sub Divisional Judicial Magistrate, Danapur in Complaint case No.437(C) of 2004 arising out of Trial No.2197 of 2006. The case of the Complainant is that he had filed a petition for mutation after the death of his father for transfer of his name in Register-II of the ancestral land being his only heir and claiming peaceful possession over the said land. A Mutation Case No.5 of 2002-2003 was instituted, in which notices were issued by the Circle Officer i.e. the Petitioner. In the said proceeding the Accused Nos.4 Patna High Court Cr.Misc. No.41239 of 2007 dt.22-08-2013 2 and 5 appeared and filed objection, pursuant to which the Petitioner passed an order dated 4.6.2002 directing the Complainant to submit the documents. On 19.7.2002 the Complainant submitted a representation laying the full particulars of his claim. On the basis of such documents the Petitioner passed a favourable order on 24.12.2002. When the Complainant went to the Halka Karamchari and requested for acceptance of the tax, he stated that since the printed receipts were not available it could not be supplied. He repeatedly went to the Halka Karamchari but to no avail and instead he was given to understand that the Petitioner had restrained him from issuing receipts. It was then concluded by him that the Petitioner was in connivance with the other accused persons and for taking illegal gratification was preventing him from depositing the rent. He then filed a requisition for supply of certified copy of the documents on 4.2.2003 upon which the Petitioner directed that it be supplied. However, the Complainant was asked to appear again along with relevant documents and when he objected that the case had already been passed in his favour and there is no occasion for re-enquiry, the Circle Officer did not supply the certified copy but was given only a photo copy. He then complained to the Petitioner that the rest of the accused persons were changing the result of the mutation case and that a proper enquiry be made into the matter. However, the Petitioner Patna High Court Cr.Misc. No.41239 of 2007 dt.22-08-2013 3 misbehaved with the Complainant and put the order in his drawer stating that a new order would be passed. The Complainant further alleged that he

heard a rumour that the Petitioner by taking bribe had changed the order of 24.12.2002 and inserted another order dated 30.9.2003 after about nine months, by which the application of the Complainant for mutation was rejected. The submission of the Petitioner is that being the Circle Officer he was required to adjudicate on the dispute which came before him. After due enquiry when the Circle Officer considering all the documents passed an order against the Complainant on 30.9.2003 he built up a case that in fact earlier a favourable order had been passed on 24.12.2002 even though that was not the correct state of affairs. In fact, the proceeding before a Circle Officer being quasi judicial in nature a proper order sheet is maintained, which would substantiate the plea of the Petitioner. On the other hand, the Counsel for the Complainant submits that the person, who has sworn the affidavit of this application, is the cousin of the Petitioner and not pairvikar and hence this petition be ignored. The further submission is that the Petitioner was an accused in another similar matter in the year 2008. Hence, for these reasons he should not be exonerated. On going through the Complaint petition, I have no manner Patna High Court Cr.Misc. No.41239 of 2007 dt.22-08-2013 4 of doubt that the present Complaint is completely misplaced, misconceived and most unbelievable. In view of such, the application is allowed and the entire proceeding including the order dated 20.12.2005 passed by Sub Divisional Judicial Magistrate, Danapur in Complaint case No.437(C) of 2004 arising out of Trial No.2197 of 2006 is set aside. (Anjana Prakash, J) NAFR/Narendra/-

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