

IN THE COURT OF Md.Gheyasuddin DISTRICT AND ADDITIONAL
SESSIONS JUDGE I, VAISHALI AT HAJIPUR

DISTRICT. VAISHALI AT HAJIPUR, BIHAR
CRIMINAL REVISION NO.34/2024.

IN THE MATTER OF :-

Prakash Kumar Kar ----- Petitioner

Vs

State of Bihar ----- Opposite 1st
Party

Ramesh Rai & others ----- Opposite 2nd parties.

Ld Counsel for the petitioner : - Sri. Ramnath Sharma ----- Advocate.

Ld Counsel for Opposite Parties :- Sri. Ramnath Mahto ----- Public Prosecutor.

DATE OF ORDER :- 19-05-2025

PRESENT :- MD.GHEYASUDDIN

ORDER

19-05-2025.

1. I have heard both the parties today and the case record is produced before me for passing order .This criminal revision has been directed against the order dated 25-01-2024, passed by Sri. Kushan Kunal J.M 1st class, Hajipur (Vaishali) in complaint case no.CI-1047/2022 by which he has dismissed the complaint case under Section 203 of Cr.P.C.

2. The plea of the petitioner is that the father in law complainant late Nagendra Rai has executed deed of gift regarding R.S.P o. 2163,U/K No. 321,area 23 decimal to petitioner. The petitioner got information that in order to create document accused Ramesh Rai executed sale deed in the name of her wife Kavita Devi on 17-12-2022, which is fabricated and executed with the purpose to put the petitioner in loss and I the sale deed accused Binod Rai is identifier and Bhola Rai is witness. The accused persons after hatching conspiracy executed the sale deed to grab the lad of the petitioner about which petitioner came to know after obtaining certified copy of the sale deed.

3. The petitioner being aggrieved and dissatisfied with the order dated 25-01-25 passed by learned Sri. Kushan Kunal J.M 1st Class, Hajipur has challenged the aforesaid order on the ground that the order of the lower court is not legally maintainable either on the points of law as well as on facts and while dismissing the complaint petition learned Magistrate has ignored the fundamental principle of law that at this stage the court can look into the fact whether a prima facie case is made out against the accused petitioners or not. The petitioner has been examined on S.A and in inquiry stage three witnesses namely Ram Charitra Mahto, Aizaz Ahmad ad Jaimurat Ram and from perusal of their statement prima facie case is



made out against the opposite 2nd party as the accused persons have created false, fabricated and bogus sale deed knowing full well the existence of registered deed of gift. Accordingly, prayer has been made to admit the revision petition, call for record of learned court of Sri. Kushan Kunal J.M 1st Class and after hearing the parties set aside the order dated 25-01-2024.

4. The Objection petition has been filed on behalf of opposite party no. 2, 3 and 5. It has been contended that the revision petition filed is not maintainable either on the point of law or fact. It has been submitted that revisionist is the own bhabhi of O.P no. 2 and Gotani of O.P no. 3 for which G.T has been given. Op. no. 2 Ramesh Rai is son of late Nagedra Rai. The complainant has stated that on 14-11-2011 her father in law Nagendra Rai executed a will in her name with respect to khesra no.2163 under under khata no. 321, area 23 decimal of land, whereas no land is recorded in the name her father's father-in-law namely Meghu Rai with respect to Khata no.321. It has been submitted that Probate case no. 15-2023 is going on between the party in the court of A.D.J 7th Vaishali at Hajipur. It has been further submitted that the learned lower court has rightly dismissed the complaint under section 203 Cr.P.C and there is no illegality in the impugned order, accordingly prayer has been made to reject the Criminal revision.

5. The lower court record has been received and perused the case record. From perusal of the case record it is found that the complainant has filed this case with allegation that father of complainant late Nagendra Rai executed registered Wasiyatnama on 14-11-2011 of the land of Khesra no.2163 under khata o. 321 measuring 23 decimal of village Bahuara, P.S Patepur, District Vaishali in the name complainant. Thereafter complainant got information that accused Ramesh Rai has executed forged sale deed on 17-12-2022 in favour of her wife for creating evidence. The complainant obtained certified copy of sale deed and came to know that sale deed has been executed of the land of 'wasiyatnama' executed into favour of complainant in which Vinod Rai is identifier and Bhola Rai is witness.

6. From perusal of the case record, it appears that in this case the complainant has been examined on oath and E.W 01, E.W 2 Jaimurat Rai and E.W 3 Ram Charitra Mahto have been examined under section 202 Cr.P.C. The revisionist is the own bhabhi of O.P no. 2 and Gotani of O.P no. 3 for which G.T has been given. Op. no. 2 Ramesh Rai is son of late Nagedra Rai. Probate case no. 15-2023 is going on between the party in the court of A.D.J 7th Vaishali at Hajipur with respect to the land in question. The complainant in his solemn affirmation has stated Ramesh Rai has executed sale deed of her land in favour of her wife for his benefit. Her grandfather (sasur) executed registered 'wasiyatnama into her favour. The land was executed by her grandfather in which Bhola Rai is witness and Vinod Rai is identifier.



7. In this case three witnesses have been examined who are villagers mother and they have tried to support the complainant's story, but there are several ingruities in their statement. The revisionist is the own bhabhi of O.P no.2 and Gotani of O.P no. 3 for which G.T has been given. Op. no.2 Ramesh Rai is son of late Nagedra Rai. Probate case no.15/2023 is going on between the party in the court of A.D.J 7th Vaishali at Hajipur with respect to the land in question. There is land dispute between the parties and the matter is essentially of civil nature , has given a cloak of criminal offence. The Honourable Supreme court in Pooja Ravinder Devidasani v/s state of Mahharashtra (2014) stated that "putting the criminal law in motion is not a matter of course. To settle the score between the parties which are more of the nature of civil dispute, the parties can not be permitted to put the criminal law into motion and the courts can not be a mere spectator. The learned lower court on the basis of S.A of complainant, deposition of inquiry witnesses and other materials available on record finds that the dispute is of civil nature and prima facie case no ground for proceeding further in this case and dismissed the complaint petition under section 203 Cr.P.C. Therefore, I find no substance in the ground of defence and the dispute between the parties are of civil nature and for the same Probate Case no. 15/2023 is going on between the party in the court of A.D.J 7th Vaishali at Hajipur with respect to the land in question.

Hence, I see no necessity to interfere in his order dated 25-01-2024. Accordingly, this Revision petition is hereby dismissed as not maintainable and groundless.

Let the copy of this order sheet along with L.C.R be sent back to learned lower court for information.

(Md.Gheyasuddin)

District & Addl.Sessions Judge, I
Vaishali at Hajipur.

