

In the Court of Sessions Judge,Purnia.

Criminal Revision No.145 of 2022

CIS No.145 of 2022

Present :- Sujit Kumar Singh
Sessions Judge,Purnea.

Neera Singh and 2 others

.. Petitioners.

Versus

State and another

.. Opposite Parties.

Revision against the order dated 21/4/2022 passed
by Smt. Latika Bharti, J.M.1st Class,Purnea in C.A.
Case No.162 of 2022.

For the petitioners :- Sri S.M.H.Qaiser,Advocate.

For the O. P.No.1 :- Sri Maharana Pratap Singh,P.P. I/c

For the O.P. Nos.2 and 3 :- Sri S.N.Bishwas,Advocate.

ORDER

1. This Criminal revision has been preferred by the petitioners,namely, 1. Neera Singh 2.Kamlesh Prasad Singh and 3. Prabhat Ranjan Singh against the order of cognizance dated 21.4.2022 passed by Smt. Latika Bharti, whereby and whereunder the learned Magistrate,Purnea has found prima-facie materials to take cognizance for the offence under sections 420 of the IPC against the petitioners to face trial and ordered to issue summon against them after filing requisite by the complainant.

2. Heard the learned counsel Sri S.H.M.Qaiser, appearing on behalf of the petitioners and Sri M.P.Singh, the learned P.P. I/c appearing on behalf of the State.

3. The case of prosecution, in brief, is that accused Neera Singh is sister of the complainant and other accused persons are close relative of the complainant. There was land in the name of mother of the complainant and accused Neera Singh,namely, Damyanti Devi,which are mentioned in the complaint petition. Accused No.1 being sister of the complainant in collusion with other accused persons prepared fake agreement of dated 12.10.2003 on the basis of forge signature of his mother and claimed eight feet land by extending threat to the complainant. In the said forge agreement, other accused persons put their respective signatures over the same. Mother of the complainant died on 12.11.2014. Complainant has filed photostat copy of death certificate of his mother as well as alleged fake agreement.

4. The learned counsel of revisionists submitted that the impugned order is not maintainable either in law or under the facts and circumstances of the case. The learned Magistrate while taking cognizance against the petitioner has committed error of law as well as facts. The learned Magistrate should have been pleased to see that virtually it was a case in between sister and brother and disputes related to the possession of residential house

property. So, no offence u/s 420 of the IPC is made out. There are documents to show that dispute between the brother and sister was in regard to claim of the passage of the residential house. The dispute also went to the learned SDO Court and the learned SDO passed the order in favour of the petitioner. So, prayed to set aside the impugned order.

5. On behalf of O.P.No.1, the learned P.P. In-charge assisted by the learned counsel of O.P. No.2 have submitted that the impugned order is well discussed and there is no need to interfere in the impugned order.

6. In the case of State of Gujarat Versus Mohammed Hasanfatta reported in (2020) 3 Supreme Court Cases (Cri) 876, the Hon'ble Court have held that Issuance of summons to accused-Requirement of satisfaction of Magistrate regarding sufficiency of ground(s) to proceed- Standard of proof required for such satisfaction-Strict standard of proof,held, no required-Such satisfaction would be based only on prima facie evidence-- Before summoning the accused, the facts stated will have to be accepted as they appear on the very face of it.

In the Case of Jhulan Yaav @ Jhulan Singh and another Versus State of Bihar and another reported in 2022(3) PLJR, our Hon'ble Court have held that at the stage of taking cognizance, the court below is not required to assign reason-the Magistrate is only required to look into the allegation made in the complaint or evidence led in support of the same and is only required to be satisfied that there are sufficient grounds for proceeding against the accused.

7. In the case of Mahendra Singh Dhoni v. Yerraguntla Shyamsundar and anr. In Transfer Petition (Criminal) No. 23 of 2016, the Hon'ble Supreme Court of India have observed as follows:“we would like to sound a word of caution that the Magistrates who have been conferred with the power of taking cognizance and issuing summons are required to carefully scrutinize whether the allegations made in the complaint proceeding meet the basic ingredients of the offence; whether the concept of territorial jurisdiction is satisfied; and further whether the accused is really required to be summoned. This has to be treated as the primary judicial responsibility of the court issuing process.”

8. In the case of M/s Pepsi Foods Ltd. & Anr. vs. Special Judicial Magistrate &Ors., reported in AIR 1998 SC 128, the Hon'ble Apex Court have observed the following principle: “Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. Magistrate has to carefully scrutinize the evidence brought on record and may even himself put questions to

the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”

9. Perused the record and photostat copy of the LCR. From perusal of the same, it appears that it is an admitted fact that accused No.1 is full sister of the complainant and the learned court below after perusing the record, statement of the complainant on S.A. and enquiry witnesses has properly assigned the reason for finding sufficient materials to issue summon against the petitioners/accused to face trial for the offence u/s 420 of the IPC and has passed the impugned order. At the stage of taking cognizance, the court below is not required to assign reason-the Magistrate is only required to look into the allegation made in the FIR or evidence led in support of the same and is only required to be satisfied that there are sufficient grounds for proceeding against the accused. I also perused the record, statement of the complainant on S.A. and enquiry witnesses and found that the learned Magistrate has rightly passed the impugned order and there is no illegality or irregularity in the impugned order and requires no interference in the impugned order by this court.

10. After analyzing the evidences as well as principle laid down by the Hon'ble Courts, I find that the impugned order dated 21.4.2022 passed in C.A. Case No.162 of 2022 by the learned court below is just and proper and requires no interference by this court. There is no illegality and irregularity in the impugned order and the impugned order is well discussed and the learned court below has rightly dismissed the complaint case of the petitioner. Accordingly, I dismiss the instant criminal revision.

(Dictated & Corrected by me)

Sd/-

Sessions Judge, Purnia.

26.4.2023.