

Brij Bihari Pandey And Anr Vs State Of Bihar

Court: Patna High Court

Date of Decision: Nov. 4, 2020

Acts Referred: Indian Penal Code, 1860 " Section 34, 120B, 167, 323, 406, 420, 468, 471, 504

Hon'ble Judges: Ahsanuddin Amanullah, J

Bench: Single Bench

Advocate: Divya, Tarkeshwar Nath Thakur

Final Decision: Dismissed

Judgement

1. The matter has been heard via video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Ms. Divya, learned counsel for the petitioners and Mr. Tarkeshwar Nath Thakur, learned Additional Public Prosecutor (hereinafter referred

to as the "APP" for the State.

3. The petitioners apprehend arrest in connection with Tarari PS Case No. 206 of 2019 dated 05.11.2019, instituted under Sections

120B/420/406/468/471/167/323/504/34 of the Indian Penal Code.

4. The petitioners are accused of fraudulently getting the land of the informant, who had gifted it to his daughters, mutated in their name on the basis

of an order passed by the Permanent Lok Adalat, Bhojpur in Case No. 631 of 2017 on 23.06.2017 on the basis of a compromise petition.

5. Learned counsel for the petitioners submitted that the matter relates to civil dispute and the present criminal case is vexatious. It was submitted that

the informant had himself signed on the compromise but is denying the same due to ulterior motives. It was submitted that in the past also, the

informant had sold 25 decimals from his share of 34 decimals in the property in question to one Dhanpato Devi on 18.02.1991 but had gifted his entire

share of 34 decimals to his daughters on 01.03.2019, though he had only 9 decimals of his share left. It was further submitted that the land was

mutated on the basis of compromise filed before the Permanent Lok Adalat and if at all the informant has any grievance, he had to move before the

Civil Court for adjudication.

6. Learned APP submitted that in the order of the learned 2nd Additional Sessions Judge, Bhojpur in ABP No. 174 of 2020 dated 07.03.2020, by

which the prayer for anticipatory bail of the petitioners was rejected, it has clearly been recorded that from the police investigation it is clear that the

lands in question were got mutated by the petitioners on the basis of a so-called order of the Permanent Lok Adalat, Bhojpur, but as per the copy of

the order sheet of the Permanent Lok Adalat, Bhojpur, no such order had been passed. It was further submitted that the petitioners are blowing hot

and cold if they submit that the informant had already sold 25 decimals of his share of total 34 decimals and only 9 decimals were left in his share in

the year 1991 itself, then also there could not have been any compromise in the year 2017 with regard to the entire lands and the petitioners could also

not have filed for mutation of the entire lands before the Circle Officer concerned. It was further submitted that if the petitioners were aware of the

conduct of the informant in resiling from his action later on, then it was all the more incumbent upon them to have got a formal decree from the

Permanent Lok Adalat, Bhojpur which would have given a seal of the Court on the compromise after following the due procedure of law which would

have safeguarded the interest of the petitioners and would have prevented the informant from resiling from his stand or denying his signature later on.

Thus, it was submitted that even in view of the stand taken by the petitioners in the present application, their conduct clearly demonstrates that it was

not fair and in fact fraudulent as mutation in the government records have been done on the basis of the so called order of the Permanent Lok Adalat,

Bhojpur which was never there, and that too, on the basis of a compromise which was never proved or accepted by the Court after following the due

procedure, in accordance with law. Learned counsel submitted that the Court below has gone into the details on merits, based on the investigation by

the police, as reflected from the case diary.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-

arrest bail to the petitioners.

8. Accordingly, the application stands dismissed.