

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.6175 of 2012

Arising Out of PS.Case No. 2035 Year- 2009 Thana -null District- VAISHALI(HAJIPUR)

1. Hirday Narayan Singh S/O Late Shiv Sagar Singh Resident Of Village-Madhavpur Nijhma, P..S- Mahua, District- Vaishali At Hajipur

.... Petitioner/s

Versus

1. The State Of Bihar
2. Hariwans Narayan Singh son of late Shiv Sagar Singh, resident of Village-Madhavpur Nijhma, P..S- Mahua, District- Vaishali At Hajipur

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. S.K. Thakur, Advocate

For the Opposite Party/s : Mr. C. Sen Rai Singh, APP

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 07-09-2015

The Petitioner seeks quashing of the order dated 29.11.2011 passed by the 2nd Additional Sessions Judge, Vaishali at Hajipur in Criminal Revision No.245 of 2011/31 of 2011, by which he has affirmed the order of cognizance dated 4.5.2011 passed by the court of Sri N. Dayal, Judicial Magistrate, 1st class, Vaishali at Hajipur in Complaint case No.2035 of 2009 (Trial No.3645 of 2011).

The case of the Complainant is that the Petitioner had cut away a number of trees which belonged to his share.

It has been submitted on behalf of the Petitioner that there is a Civil Suit going on between the parties with regard to their land and hence the present Complaint with regard to theft of trees

does not appear tenable.

On the other hand, the Counsel for the Complainant submits that since the Petitioner had cut away the trees which belonged to him, he should be put on trial.

Having considered the nature of allegations as also the relationship between the parties and the background facts that the share has not been demarcated, I would be inclined to hold that the present Complaint is a gross abuse of the process of the court and deserves to be set aside. Hence, the application is allowed and the proceeding including the order dated 29.11.2011 passed by the 2nd Additional Sessions Judge, Vaishali at Hajipur in Criminal Revision No.245 of 2011/31 of 2011 as also the order of cognizance dated 4.5.2011 passed by the court of Sri N. Dayal, Judicial Magistrate, 1st class, Vaishali at Hajipur in Complaint case No.2035 of 2009 (Trial No.3645 of 2011) is hereby set aside.

(Anjana Prakash, J)

Narendra/-

U		T	
---	--	---	--