

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.10056 of 2013

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1. Yashwant Rai, Son Of Late Ramchandra Rai. Resident Of Village Nasber Chamtha, P.O. Chamtha Barkhunt P.S. Bachwara, District Begusarai.
 2. Pramod Paswan, S/O Late Brahmadeo Paswan, Resident Of Village- Chamtha Barkhunt, P.S.- Bachwara, District- Begusarai
 3. Anil Kumar Tiwary, Son Of Late Suresh Chandra Tiwary, Resident Of Village Sahit Tajpur, P.S. Vidhyapatinagar, District - Samastipur.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Kundan Kumar Tiwary
3. Kunal Kumar Tiwary

Both Sons Of Mrinalkant Tiwary, Resident Of Village Sahit Tajpur, P.S. Vidhyapatinagar, District Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Adv.

For the State : Mr. Nityanand Tiwari, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 19-05-2015

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order dated 21.1.2013 by which the Sub Divisional Judicial Magistrate, Dalsinghsarai, Samastipur, in MR No. 631 of 2012 arising out of non FIR No. 103 of 2012 converted the Proceeding of Section 144 Cr. P.C. to one under Section 145 Cr. P.C. without considering that the title suit is pending in respect of the same land between the same parties as is apparent from the Police report (Annexure-3) submitted before him.

I find that Police report indeed mentions the pendency of

a civil suit in the Court below.

Hence, the order dated 21.1.2013 passed by the Sub Divisional Judicial Magistrate, Dalsinghsarai, Samastipur, in connetion with M.R. No. 631 of 2012 arising out of non FIR No. 103 of 2012, is hereby set aside.

The matter is remanded to the Court below to pass a fresh order considering the aforesaid aspect within a period of four weeks from the date of receipt of this order upon hearing both the Parties in accordance with law.

S.Ali/-

(Anjana Prakash, J)

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