

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.8723 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- MUNGER

1. Subhash Yadav S/O Sri Raghunandan Yadav Resident Of Village- Taufir Karari Tola, Police Station- Munger Mufassil, District- Munger.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Giro Sah S/O Late Mayaram Sah Resident Of Village- Mai Pir Pahar, Police Station- Munger Mufassil, District- Munger.
3. Rameshwar Yadav S/O Late Kesho Yadav Resident Of Village- Mai Pir Pahar, Police Station- Munger Mufassil, District- Munger.
4. Raj Kishore Yadav S/O Late Sita Ram Yadav Resident Of Village- Taufir Karari Tola, Police Station- Munger Mufassil, District- Munger.
5. Kailash Yadav S/O Sri Raghunandan Yadav Resident Of Village- Taufir Karari Tola, Police Station- Munger Mufassil, District- Munger.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 20-04-2015

The petitioner seeks quashing of the order dated 17.05.2011 by which the first Additional Sessions Judge, Munger in Cr. Revision No. 93 of 2010 has set aside the order dated 18.03.2010 by which Sub-Divisional Magistrate, Munger has refused to initiate the proceeding under Section 144 Cr. P.C in Case No. 123 M of 2010 on the ground that the a civil proceeding was already pending.

The brief history is that a proceeding under Section 144 Cr. P.C. was initiated which was later dropped by the S.D.M. However, the Opposite Party went to the Revisional Court which set aside the

order of the S.D.M and then a proceeding under Section 144 was initiated as against which order the petitioner moved the Revisional Court on the ground that a title suit was pending in which injunction had been granted in favour of the petitioner. However the Revisional Court refused to interfere in the matter and hence the present application.

Notices had been issued to the private opposite parties upon which the O.P. Nos. 2 and 3 have appeared. The counsel is not in a position to refute such submissions.

Considering that the established principles of law is that if a civil suit is pending, there is no justification for a proceeding under Section 144 Cr. P.C, the application is allowed and the order dated 17.05.2011 passed by the first Additional Sessions Judge, Munger in Cr. Revision No. 93 of 2010 is hereby quashed.

(Anjana Prakash, J)

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