

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.44635 of 2009

Arising Out of PS.Case No. -1992 Year- 2005 Thana -null District-
EASTCHAMPARAN(MOTIHARI)

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1. Syed. Shamim Akhtar S/O Late Syd. Md. Ibrahim R/O Vill Sugauli, Tola Prim
Nagar, P.S.Sugauli, Distt-East Champaran

.... Petitioner/s

Versus

1. The State Of Bihar
2. Shrestha Narayan Singh S/O Late Shiv Nandan Singh R/O Vill Rulhi, P.S.
Mathauliya, Distt-West Champaran

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. A.N. Jha, Advocate

For the Opposite Party/s : Dr. Indihar Kumari, APP

For Opposite Party No.2 : Mr. S.R. Sahi, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 23-02-2015

The Petitioner seeks quashing of the order dated 26.10.2009 passed in Criminal Revision No.41 of 2006/ 12 of 2006, by which the Additional Sessions Judge-cum-F.T.C. 1st, Motihari, East Champaran has affirmed the order of cognizance dated 2.1.2006 passed by the Judicial Magistrate, Sadar, Motihari in Enquiry No.178 of 2005 arising out of Complaint Case No.C-1992 of 2005.

The case of the Complainant is that he had purchased a certain piece of land by a registered sale deed from one Bhagwat Prasad Sharma, whereafter the Complainant was informed by his grand son that the accused persons had taken away some articles from the hut situated on the aforesaid plots. He then complained to the local police but they did not take any action initially and then he filed a Complaint, which was sent for investigation under Section 156(3)

Cr.P.C., upon which a substantive case was instituted.

It has been submitted that final report was submitted after due investigation since the dispute was purely civil in nature but on the protest a Complaint case was instituted and cognizance taken. The further submission is that for the same cause of action the Complainant has filed a Title Suit.

Undoubtedly both the parties assert bonafide claim over the said land, under which circumstances no criminal offence is made out.

Hence, the application is allowed and the proceedings including the order dated 26.10.2009 passed in Criminal Revision No.41 of 2006/ 12 of 2006 by the Additional Sessions Judge-cum-F.T.C. 1st, Motihari, East Champaran and order dated 2.1.2006 passed by the Judicial Magistrate, Sadar, Motihari in Enquiry No.178 of 2005 arising out of Complaint Case No.C-1992 of 2005 are hereby set aside.

However, the quashment of the present proceeding shall have no bearing on the Civil Suit.

(Anjana Prakash, J)

Narendra/-

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