

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Revision No. 1153 of 2013**

Arising out of P.S. Case No. -null Year- null Thana -null  
District- BHAGALPUR

- =====
1. Yogendra Narayan Singh S/o Gajendra Narayan Singh Resident of Village- Balaha, P.S.- Bihpur, District- Bhagalpur.
  2. Indu Bhushan Singh @ Sudhirku Singh S/o Ratendra Singh Resident of Village- Balaha, P.S.- Bihpur, District- Bhagalpur.
  3. Dileep Kumar Singh S/o Ratneshwar Pd. Singh Resident of Village- Balaha, P.S.- Bihpur, District- Bhagalpur.

.... .... Petitioner/s

Versus

1. The State of Bihar.
2. Muneshwar Singh S/o Himan Singh Resident of Village- Bahada, P.S.- Bihpur, District- Bhagalpur.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : None.

For the Respondent/s: Mr.

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**CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH**

ORAL JUDGMENT

**Date: 18-08-2015**

No one appears on behalf of the Petitioners.

The Petitioners seek direction for setting aside the order dated 19.07.2013 passed in Cr. Rev. No. 113 of 2009 by the 5<sup>th</sup> Additional District & Sessions Judge, Naugachia, Bhagalpur, by which he has set aside the order dated 07.04.2009 passed by the Judicial Magistrate, 2<sup>nd</sup> Class, Naugachia, Bhagalpur in C.A. Case No. 70 of 2009.

The case of the Complainant is that he had ancestral property and one Mayabati Devi had instituted a Title Suit No. 35 of 1998 with regard to the said plot



which was pending in the Civil Court but she had withdrawn her claim as regards the said plot. The Informant thereafter became the title owner of the said land. The accused persons in conspiracy sold a certain piece of land to derive benefit and deprived the Informant of his original share. When he attempted to get the certified copy of the registered sale deed he was unable to do so. When he instituted the First Information Report the Police was not willing to investigate the case fairly and was in the mood to submit final report upon which a protest petition was filed which was treated as Complaint and subsequently cognizance was taken.

On going through the allegations in the Complaint Petition, the Magistrate was satisfied that no criminal offence is made out and, hence, dismissed the Complaint. However, the Complainant went in Revision which was allowed and the Complaint was remanded to the Court below for fresh adjudication.

On the other hand, Counsel for the Complainant submits that since the Petitioners had played fraud upon him by selling his lands they should be put on trial.

Considering the nature of allegations, I would be inclined to hold that the present prosecution is a gross abuse of the process of the Court and deserves to be set aside.

Hence, the entire proceeding as against all the accused persons including the order dated 19.07.2013 passed in Cr. Rev. No. 113 of 2009 by the 5<sup>th</sup> Additional District & Sessions Judge, Naugachia, Bhagalpur, by which he has set aside the order dated 07.04.2009 passed by the Judicial Magistrate, 2<sup>nd</sup> Class, Naugachia in C.A. Case No. 70 of 2009 is, hereby, set aside.

The Revision Application stands allowed.

**(Anjana Prakash, J.)**

Vikash/-

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