

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32550 of 2012

Arising Out of PS.Case No. -1016 Year- 2010 Thana -null District- SIWAN

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Shiv Balak Sah S/O Late Kasi Nath Sah R/O Balchan Ke Hata, P.S. Siwan, Distt. -
Siwan

.... Petitioner/s

Versus

1. The State Of Bihar
2. Asharfi Sah S/O Late Sihanshan Sah R/O Balchan Ke Hata, P.S. Siwan, Distt. -
Siwan

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 27-03-2015

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the order of cognizance dated 28.1.2012 passed by the Judicial Magistrate, 1st Class, Siwan, in Complaint petition bearing No. 1016 of 2010 under Sections 147, 323, 427 and 379 of the Indian Penal Code.

The case of the Complainant is that the accused persons entered into his field and cut away bamboo clumps value of about Rs.5,000/-.

It has been submitted on behalf of the Petitioner that fact of the matter is that the Parties are agnates and there is dispute with regard to the land for which a Title Suit 219 of 2009 has been

going on. Both the Parties assert their ownership/possession over the said land and, hence, in the facts of the case, no offence under Section 147, 379 and 427 Indian Penal Code is made out.

On the other hand, the counsel for the Complainant submits that he was in no mood to institute the complaint but when he suffered injuries, he filed this present Complaint.

Having gone through the facts and that both sides assert bona fide right over the land in question, the application is allowed and the order of cognizance dated 28.1.2012 passed by the Judicial Magistrate, 1st Class, Siwan, in Complaint petition bearing No. 1016 of 2010 under Sections 147, 323, 427 and 379 of the Indian Penal Code is, hereby, set aside.

However, the quashment of present Proceeding shall have no bearing on Title Suit.

(Anjana Prakash, J)

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