

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 24865 of 2009

Arising out of P.S. Case No. -0 Year- null Thana -null
District- BEGUSARAI

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Uday Shankar Singh, Son of Kedar Singh, Resident of Village-Khambar, Police Station-Begusarai Muffasil, in the district of Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Ashok Singh, Son of Ramautar Singh, Resident of Village-Khambar, Police Station-Begusarai Muffasil, District-Begusarai.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gopal Prasad Roy, Adv.

For the Opposite Party/s : Mr. Nand Kishore Pd. APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 31-07-2015

The Petitioner seeks quashing of the order of cognizance dated 22.05.2009 passed by the Judicial Magistrate, 1st Class, Begusarai in Protest-cum-Complaint Case No. 2155(C) of 2007 arising out of Begusarai Muffasil P.S. Case No. 275 of 2006.

The case of the Complainant is that the accused persons had sold off the lands which had been acquired by him.

The submission of the Petitioner is that initially on this Complaint a First Information Report was instituted but after due investigation final report was submitted but on a protest-cum-complaint the present prosecution has been instituted. Under these

circumstances, the Petitioner submits that the prosecution be set aside.

On the other hand, Counsel for the Complainant submits that even though final report was submitted since the Petitioner had acted in a high-handed manner he should be prosecuted.

Having considered the fact that a Title Suit is pending between the parties in which background the Complaint appears untrustworthy I would think the present prosecution is a gross abuse of the process of the Court and deserves to be set aside.

Hence, the order of cognizance dated 22.05.2009 passed by the Judicial Magistrate, 1st Class, Begusarai in Protest-cum-Complaint Case No. 2155(C) of 2007 arising out of Begusarai Muffasil P.S. Case No. 275 of 2006 is, hereby, set aside.

The Application stands allowed.

(Anjana Prakash, J.)

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