

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.33707 of 2012

Arising Out of PS.Case No. -37 Year- 2011 Thana -null District- MADHEPURA

Vijay Kumar Choudhary S/O Late Maheshwar Chaudhary R/O Village- Kurson,
P.S.- Madhepur, Distt.- Madhubani

.... Petitioner/s

Versus

1. The State of Bihar
2. Ratan Kumar Choudhary S/O Late Umeshwar Choudhary Resident Of Village-
Kurson, P.O.- Chunni, P.S.- Madhepur, District- Madhubani

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 17-04-2015

The petitioner seeks quashing of the order of cognizance dated 04.07.2012 passed by the Judicial Magistrate, 1st Class, Jhanjharpur in connection with C.R. No. 37 of 2011, T.R. No. 2042 of 2012.

The case of the complainant is that when the petitioner was cutting a tree on his land he stopped him but instead the petitioner assaulted him with axe and caused a loss of Rs. 15000/- on account of taking away the tree.

It is submitted on behalf of the petitioner that fact of the matter is that due to land dispute between the parties, the present complaint has been filed even though the Petitioner has been in peaceful possession of the said land. This fact also appears from the statement

of the witnesses during enquiry that the parties are agnates and there is dispute over the land concerned.

On the other hand complainant submits that the petitioner had no authority to cut away the tree and having done so he should be prosecuted.

On consideration of the facts of the case since the Petitioner asserts bonafide right over the disputed land, no ingredient of mischief punishable under Section 427 IPC is made out. Hence the application is allowed and the order of cognizance dated 04.07.2012 passed by the Judicial Magistrate, 1st Class, Jhanjharpur in connection with C.R. No. 37 of 2011, T.R. No. 2042 of 2012, is hereby quashed.

However, this order shall have no bearing on the claims of the parties.

(Anjana Prakash, J)

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