

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28402 of 2012

Arising Out of PS.Case No. -357 Year- 2010 Thana -null District- SUPAUL

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1. Shashi Bhushan Singh S/O Late Anurudh Singh Resident Of Village- Parsauni, Police Station- Supaul, District- Supaul
 2. Sushil Kumar Singh S/O Late Anurudh Singh Resident Of Village- Parsauni, Police Station- Supaul, District- Supaul
 3. Rajan Kumar Singh S/O Shashi Bhushan Singh Resident Of Village- Parsauni, Police Station- Supaul, District- Supaul
 4. Sajan Kumar Singh S/O Shashi Bhushan Singh Resident Of Village- Parsauni, Police Station- Supaul, District- Supaul
 5. Subhash Singh S/O Late Bindeshwari Singh Resident Of Village- Parsauni, Police Station- Supaul, District- Supaul
 6. Arbind Singh S/O Phuleshwar Singh Resident Of Village- Rakia, Police Station- Bihra, District- Saharsa
 7. Suresh Mukhiya S/O Ram Prasad Mukhiya Resident Of Village- Simra Barail, Police Station- Supaul, District- Supaul
 8. Anil Mukhiya S/O Ram Prasad Mukhiya Resident Of Village- Simra Barail, Police Station- Supaul, District- Supaul
 9. Yugo Mukhiya S/O Mangan Mukhiya Resident Of Village- Simra Barail, Police Station- Supaul, District- Supaul
 10. Chanda Mukhiya S/O Kaleshwar Mukhiya Resident Of Village- Simra Barail, Police Station- Supaul, District- Supaul
 11. Binda Mukhiya S/O Sonar Mukhiya Resident Of Village- Simra Barail, Police Station- Supaul, District- Supaul

.... Petitioner/s

Versus

1. The State Of Bihar
2. Arun Kumar Singh S/O Late Bijendra Singh Resident Of Village- Parsarma Parsauni, Police Station- Supaul, District- Supaul

.... 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: 24-04-2015

Supplementary affidavit has been filed bringing on record the stage of the case as also additional documents showing title over the said land.

The petitioner seeks quashing of the order of cognizance dated

30.07.2010 passed by the S.D.J.M Supaul in Complaint Case No. 357 of 2010.

The case of the complainant is that disputed pond was self acquired property of the grand father of the complainant since the year 1957 through registered sale deed. Later the pond was mutated in his favour as well.

On the date of occurrence the accused persons armed with deadly weapons came to the pond and attempted to forcibly start fishing. When he reached and protested he was assaulted and threatened on the point of gun. The accused persons committed theft of about 10 quintals of fish valued to the tune of Rs. 150000/-. He informed the police but it reached too late and hence filed the present complaint.

It has been submitted on behalf of the petitioners that as is evident from the complaint petition itself that there is civil dispute between the parties over the pond and both sides laid their claims over it.

Since both parties claim legal right over the pond in questions the allegations with regard to theft and mischief are evidently not sustainable and it appears the allegations of assault and threat are leveled only as a short cut method to settle the dispute.

On the other hand the complainant submits that petitioner had acted in a high handed manner, they should be put on trial.

Having gone through facts of the case, I would be inclined to

hold that the complaint does not deserve to proceed in view of bonafide claims over the pond. Hence the application is allowed and the order of cognizance dated 30.07.2010 passed by the S.D.J.M Supaul in Complaint Case No. 357 of 2010, is hereby quashed.

However this order would not give any undue advantage to any party.

(Anjana Prakash, J)

Prakash/-

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