

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36626 of 2012

Arising Out of PS.Case No. -647 Year- 2011 Thana Kotwali District- PATNA

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Rahul Kumar @ Manoj Kumar Sinha, son of late Ashok Kumar Sinha, resident of Sindhi Chat, Station Road Patna, P.S. Kotwali, Distt. Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Kishan Chand Agarwal, son of late Ram Sahay Agarwal, resident of Agarwal Vastra Kutir, Station Road, Patna, P.S. Kotwali, Distt. Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. A.K. Thakur, Adv.

Mr. Ravi Ranjan, Adv.

For the State : Dr. Indiwari Kumari, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 05-05-2015

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the order of cognizance dated 13.6.2012 passed by the Chief Judicial Magistrate, Patna, in Kotwali P.S. Case No. 647 of 2011.

The case of the Informant is that he was doing business of cloth by the name and style M/s. Agarwal Vastra Kutir at Station Road, Patna, and he had purchased the disputed premises in the year 1974 from one Late Ashok Kumar Sinha through a registered sale deed. However, after the death of Ashok Kumar Sinha, his son i.e. Rahul Kumar @ Manoj Kumar Sinha, Petitioner, herein, started torturing the Informant in different ways on account of which he filed a Sanha. A Proceeding then under Section 144 Cr. P.C. was initiated and an enquiry under Section 188 Cr. P.C. was also held. He

complained that the accused persons had broken open the lock of store room and removed his articles and placed theirs in the same.

The submission of the Petitioner is that the fact of the matter is that there was a title suit with regard to the premises and indeed a Proceeding under Sections 144 and 188 Cr. P.C. had been initiated.

The Informant had not followed the order passed under Section 188 Cr. P.C. for which he was noticed. If at all there is any dispute, it is bonafide with regard to the premises and hence, no offence whatsoever is made out.

On going through the case diary, I find that there is a concession by all the witnesses that there was some kind of dispute over the possession of store room, in which circumstances, in my opinion, the Prosecution deserves to be set aside.

Hence, the application is allowed and the entire Proceeding including the order dated 13.6.2012 passed by the Chief Judicial Magistrate, Patna, in Kotwali P.S. Case No. 647 of 2011 is hereby set aside.

However, this order shall not prejudice any party in any manner.

(Anjana Prakash, J)

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