

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25637 of 2011

Arising Out of PS.Case No. 584 Year- 2011 Thana -null District- WESTCHAMPARAN(BETTIAH)

Rajesh Prasad Jaiswal @ Dinesh Prasad Jaiswal, son of Bharath Prasad Jaiswal alias Achelal Prasad Jaiswal, resident of Purani Bazar, Shikarpur (Narkatiyaganj), P.S. Shikarpur, District West Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Akhilesh Prasad Jaiswal alias Prabhunath Prasad Jaiswal son of late Bharat Prasad Jaiswal alias Achelal Prasad Jaiswal, resident of Purani Bazar, Shikarpur (Narkatiyaganj), P.S. Shikarpur, District West Champaran

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Fakhruddin Ali Ahmad, Advocate
Mr. Anjum Perveen, Advocate
For the State : Mr. Awadhesh Kumar Singh, APP
For Opposite Party No.2 : Mr. Anil Kumar Sinha, Advocate
Mr. Shakib Ayaz, Advocate
Mr. Mritunjay Kumar, Advocate

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL JUDGMENT
Date: 02-02-2015

The Petitioner seeks quashing of the entire proceeding including the order of cognizance dated 13.6.2011 passed by the court of Shri P.C. Verma, Judicial Magistrate, Bettiah, West Champaran in Trial No.3351 of 2011 arising out of Complaint case No.584C of 2011.

The case of the Complainant, who happens to be the full brother of the Petitioner, is that he had acquired certain piece of land through a registered deed gift from his grand father on 4.9.1962 and had come into possession of the same. However, repeatedly the Petitioner was creating a problem in his possession, as a result of

which a proceeding under Section 144 Cr.P.C. was initiated at one point in time. On the date of occurrence, the accused persons came upon the lands and started to act in a highhanded manner and also demanded extortion in place of the land.

It has been submitted on behalf of the Petitioner that the relationship is not denied and fact of the matter is that it is the Complainant, who has been creating a problem in possession of the Petitioner. In fact right after the present Complaint was filed, the police submitted a report in regard to the dispute between the brothers wherein it is stated that the Petitioner was supported by his mother, who lived with him and that the acts of the Opposite Party No.2 were unjustified.

On the other hand, the Counsel for the Complainant submits that by creating false documents the Petitioner is disturbing his title, therefore, he should be put on trial.

On going through the facts of the Complaint, I would be of the opinion that the nature of dispute between the two brothers appears to be civil, for which the appropriate Civil Court should be approached. There is no doubt that for the same set of facts both criminal and civil liabilities may emanate but in the facts of the present case in the background of dispute between the parties the present Complaint appears to be more in the nature of a short cut

method to sort out the civil dispute.

Hence, the application is allowed and the entire proceeding so far as the Petitioner is concerned including the order of cognizance dated 13.6.2011 passed by the court of Shri P.C. Verma, Judicial Magistrate, Bettiah, West Champaran in Trial No.3351 of 2011 arising out of Complaint case No.584C of 2011 is hereby set aside.

However, the quashment of the present proceeding shall have no bearing or give any unfair advantage to either of the parties.

(Anjana Prakash, J)

Narendra/-

U		T	
---	--	---	--