

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40341 of 2012

Arising Out of PS.Case No. -571 Year- 2010 Thana -null District- KHAGARIA

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1. Manoj Prasad son of Late Dr. Shyam Sundar Prasad, R/O Sanhoji, P.S. - Chitragupta Nagar, Distt. - Khagaria

.... Petitioner/s

Versus

1. State Of Bihar
2. Subhash Kumar son of Sri Suresh Prasad, resident of Sanhoji, P.S. - Chitragupta Nagar, Distt. - Khagari

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Smt. Soni Srivastava, Advocate

For the Opposite Party/s : Mr. C. Jawahar, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 20-07-2015

The Petitioner seeks quashing of the order of cognizance dated 3.2.2011 passed by the court of Sri J.P. Kirku, Judicial Magistrae, 1st class, Khagaria in Complaint case No.571C of 2010.

The case of the Complainant is that on the date of occurrence the accused persons came upon his land and started to forcibly evict him and also committed theft of maize crops.

It has been submitted on behalf of the Petitioner that evidently there is land dispute between the parties, on account of which Title Suit No.121 of 2008 is pending between them for the same piece of land. In such circumstances, the allegation with regard to theft and criminal trespass etc does not appear credible.

On the last occasion notices had been issued to the

Opposite Party No.2 but none appears on his behalf.

Having considered the nature of allegations as also the background land dispute, I would be inclined to hold that the present Complaint is multiplicity of proceeding and deserves to be set aside.

Hence, the application is allowed and the proceeding including the order of cognizance dated 3.2.2011 passed by the court of Sri J.P. Kirku, Judicial Magistrate, 1st class, Khagaria in Complaint case No.571C of 2010 without prejudice to either party is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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