

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13378 of 2011

Arising Out of PS.Case No. -718 Year- 2009 Thana -null District- SASARAM (ROHTAS)

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1. Anil Kumar Singh, S/O Late Indrajeet Singh, resident of Santoshi Maa Path, Sasaram, Police Station- Sasaram, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar &
2. Jagnarayan Upadhyay, son of late Rajpati Upadhyay, resident of village- Raksiya, P.S.-Agrer, District- Rohtas.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Syed Asgher Nazmi, Advocate

For the Opposite Party/s : Mr. Ahmad Ali, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 26-06-2015

1. No one appears on behalf of the Opposite Party

No.2 on repeated calls.

2. The Petitioner seeks quashing of the order of cognizance dated 13.04.2010 passed by the Chief Judicial Magistrate, Rohtas, in Sasaram Agrer P.S. Case No.718 of 2009.

3. The case of the Informant is that the Petitioner being the Contractor had been directed to bring soil from the remote area but he was cutting earth from nearby area which has caused nuisance for the persons residing there.

4. It has been submitted on behalf of the Petitioner that on such allegation in the First Information Report no criminal offence would be made out.

5. Case Diary was called for and on examination of the same, the learned APP submits that some witnesses have stated that the Petitioner had forcibly excavated the earth, whereas, some witnesses have stated that he had done it rightfully.

6. Without going into rival claims, considering the circumstance which is mentioned in the First Information Report, I am inclined to hold that no criminal offence would be made out.

7. Accordingly, the order of cognizance dated 13.04.2010, passed by the Chief Judicial Magistrate, Rohtas, in Sasaram Agrer P.S. Case No.718 of 2009, is hereby set aside.

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

9. The application stands allowed.

(Anjana Prakash, J)

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