

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 48384 of 2008

Arising out of P.S. Case No. -0 Year- null Thana -null
District- SAMASTIPUR

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Manoj Kumar Gupta, Son of Sri Vishwanath Gupta, Village-
Rampura, Mukhiya of Ladaura Gram Panchayat, P.S.-Kalyanpur,
District-Samastipur. Petitioner/s

Versus

1. The State of Bihar.
2. Rajeshwar Singh, Son of Late Phuddi Singh, Village-Ladaura,
P.S.-Kalyanpur, District-Samastipur..... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rupak Kumar, Adv.
For the Opposite Party/s : Mr. Biraj Bhushan Pd. Adv.
For the State : Mr. C. Jawahar, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 30-06-2015

The Petitioner seeks quashing of the entire proceeding including the order of cognizance dated 22.02.2008 passed by the Judicial Magistrate, 1st Class, Samastipur in CR No. 127 of 2007 (Tr. No. 2759 of 2008).

The case of the Complainant is that he had collected bricks and sent it for getting his house constructed under the Indira Awas Yojna. The Petitioner is said to have taken photo copies of the papers of his land and also signature on three papers but he was not paid the money. He was told that once he withdrew the case of Panchayat Bhawan against the Mukhiya only then would he be paid the amount. When he made a Complaint to B.D.O. Kalyanpur he did not take any action against him.

It appears that on such Complaint Kalyanpur

P.S. Case No. 5 of 2006 was instituted which ended in a final report. However, the case proceeded on the Protest Petition.

It has been submitted on behalf of the Petitioner that when an impartial inquiry was done into the allegations the case was found false and, hence, the present Complaint only on oral uncorroborated allegations should not be the basis for trial.

On the other hand, the Counsel for the Complainant submits that since he had been deprived of his dues the Petitioner should be put on trial.

Having considered the nature of allegations and the fact that after due investigation the allegations are found false, I am inclined to allow the application.

Hence, the entire proceeding as against the Petitioner including the order of cognizance dated 22.02.2008 passed by the Judicial Magistrate, 1st Class, Samastipur in CR No. 127 of 2007 (Tr. No. 2759 of 2008) is, hereby, set aside.

The application stands allowed.

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

Vikash/-

(Anjana Prakash, J.)

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