

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49007 of 2008

Arising Out of Complaint Case No. 77 Year- 2008 District- SITAMARHI

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1. Kailasiya Devi, wife of Raghunath Rai
 2. Raghunath Rai, son of late Ram Dayal Rai
 3. Nandlal Rai, son of Brahmdeo Rai

All resident of village Bishwanathpur, P.S. Dumra, Distt. Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar
2. Rameshwar Pd. Yadav @ Bhola, son of late Sita Sharan Singh, resident of Mohalla Bishwanathpur, P.S. Dumra, Distt. Sitamarhi.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Adv.

Mr. Bimal Kumar, Adv.

For the State : Mr. S. Ehteshamuddin, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 03-07-2015

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of cognizance dated 23.9.2008 passed by the Judicial Magistrate, 1st Class, Sitamarhi, in Complaint Case No. C-1 77 of 2008.

The case of the Complainant is that he received information that his crops have been cut by the accused persons and when he went there, he saw that it was true and when he protested, the accused persons did not take heed nor did the Police take action in the matter.

It has been submitted on behalf of the Petitioners that for the same cause of action, the Opposite Party No. 2 had lodged Police

Case being Dumra P.S. Case No. 275 of 2006 dated 21.11.2006 and after due investigation, the Police submitted Final Report opining that it was a case of civil dispute. In fact, the Police was right in such opinion because for the same piece of land, a Proceeding under Section 144 Cr. P.C. had been initiated and decided in favour of the Petitioner against which the Complainant had moved before the Superior Court which matter was pending.

On the other hand, the counsel for the Complainant submits that since in the present Complaint cognizable offence is made out, the Proceeding should not be quashed.

Having gone through the First Information Report and nature of allegations, I would be inclined to hold that it is on account of land dispute, the present case has been instituted with embellished of allegations.

Hence, the application is allowed and the Proceeding including the order of cognizance dated 23.9.2008 passed by the Judicial Magistrate, 1st Class, Sitamarhi, in Complaint Case No. C-1 77 of 2008, is hereby set aside.

(Anjana Prakash, J)

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