

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13953 of 2012

Arising Out of PS.Case No. -270 Year- 2011 Thana -null District- GOPALGANJ

=====

1. Krishneshwarendra Sahi @ Batukjee, S/O Late Harishwarendra Sahi, resident of Manjhila Patti House, Village +P.O & P.S- Manjhagarh, Distt- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar
2. Paspati Sah, S/O Late Laxmi Sah, resident of Village- Manjhagarh Nayi Bazar, P.S- Mannjhagarh, Distt- Gopalganj,

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Sunil Kumar @ Sharma, Advocate

For the Opposite Party/s : Mr. Mtritunjay Pd. Singh, Advocate

APP

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 10-02-2015

1. The Petitioner seeks quashing of the order of cognizance dated 12.03.2012 passed by the Chief Judicial Magistrate, Gopalganj, in Gopalganj P.S. Case No.270 of 2011.

2. The case of the Informant is that the Petitioner through a Power of Attorney had sold off his land to a person and, thus, deprived him of his property.

3. It has been submitted that fact of the matter is that the Petitioner, who is the grandson of ex-landlord of Manjha Estate, had given power of Attorney on his behalf since he was ailing to one Chandrika Singh. After institution of this case, he tried to find out about the claims of the Complainant. He learnt that the Informant had filed Title Suit No. 24 of 1999 in the Court of the Sub-Judge, 1st,



Gopalganj, where he claimed title on the basis of a *Parwana* executed in the year 1931 which was decreed in his favour on 04.10.2004. Subsequently, he also filed an application for eviction of power of Attorney holder of the said property. However, the Petitioner, who was the rightful owner was not impleaded as defendant, hence, the decree was not binding upon him.

4. Under such circumstances, counsel for the Petitioner submits that evidently in ignorance of the decree he had sold 4 *dhurs* of land out of 22 *dhurs* on 30.04.2010 after which the present Complaint Petition was filed in August, 2011. The dispute is essentially of civil nature and hence the present criminal prosecution will be superfluous and gross abuse of the process of the Court.

5. On the other hand, counsel for the Informant submits that the Petitioner all along knew that the property of which sale deed was executed was his as is evident from another sale deed in which he had mentioned the lands of the Informant adjacent to the land on which sale deed was executed. Hence, the Petitioner cannot claim ignorance of his title.

6. Having gone through the allegations, documents and submissions, it appears that both the parties lay bonafide claim over the land, in question, and the dispute is essentially civil in nature since a Title Suit was already pending.

7. In such circumstances, present criminal prosecution will unnecessarily complicate the issue for both the parties and hence, the order of cognizance dated 12.03.2012 passed by the Chief Judicial Magistrate, Gopalganj, in Gopalganj P.S. Case No.270 of 2011, is hereby set aside in so far as the Petitioner is concerned.

8. The application stands allowed.

(Anjana Prakash, J)

JA/-

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