

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.10241 of 2009

Arising Out of PS.Case No.27 Year- 2007 Thana Sultanganj District- BHAGALPUR

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1. Punit Murarka, son of late Narayan Murarka, resident of Anand Chikitsalaya Road, P.S. Kotwali Town and Distt. Bhangalpur.
 2. Prakash Murarka, son of late Sitaram Murarka, resident of Dhawaja Gali, Sultanganj, P.S. Sultanganj, Distt. Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Narsing Prasad Murarka, son of late Ranglal murarka, resident of Dhawaja Gali, Sultanganj, P.S. Sultanganj, Distt. Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prushottam Kumar Jha, Adv.

For the State : Mr. Mukesh Kr. Singh, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 10-07-2015

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of cognizance dated 10.9.2008 passed by the Chief Judicial Magistrate, Bhagalpur, in Sultanganj P.S. Case No. 27 of 2007, G.R. No. 604 of 2007.

The case of the Informant is that he had derived certain portion of land from his paternal landed property which was sold by the Petitioners and one Pramod Kumar Morarka, now dead, to one Ajay Kumar and Uttam Kumar. He apprehended that the Petitioners would sell more of his land and, hence, instituted the present First Information Report.

The submission of the Petitioners is that the accused

persons and the Informant belong to the same family and family had huge undivided Hindu landed property. For the convenience of the family, certain persons had been made In-charge for looking after the affairs which had been disturbed by the Informant, since he could not take advantage in the transaction. For the same cause of action, a Title Suit is also pending between them and, hence, the present First Information Report is a gross abuse of the process of the Court and deserves to be set aside.

Notices had been issued to the Opposite Party No. 2 but none appears on his behalf.

Having considered the relationship between the Parties and also the fact that the property belong to an undivided Hindu family, in which circumstances, no criminal offence is made out, the application is allowed and the Proceeding including the order of cognizance dated 10.9.2008 passed by the Chief Judicial Magistrate, Bhagalpur, in Sultanganj P.S. Case No. 27 of 2007, G.R. No. 604 of 2007 is, hereby, set aside.

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

(Anjana Prakash, J)

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