

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No. 894 of 2013

Arising out of P.S. Case No. -220 Year- 2011 Thana –
Complaint District- EASTCHAMPARAN(MOTIHARI)

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1. Moti Prasad Singh @ Moti Singh, Son of Late Radha Kant Singh.
 2. Muntun Singh @ Mantu Prasad Singh, Son of Late Bachcha Singh.
 3. Anand Kumar Singh, Son of Ramadhar Singh.
 4. Suresh Prasad Singh, Son of Ramadhar Singh.
 5. Arvind Kumar Singh @ Dipu Singh, Son of Bharat Singh. All are resident of Village-Garahiya, Police Station-Madhuban, District-East Champaran (Motihari).

.... Petitioner/s

Versus

1. The State of Bihar.
2. Kwish Miyan, Son of Late Jala Mian, Resident of Village-Garahiya, Police Station-Madhuban, District-East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. J. P. Singh, Adv.

For the Respondent/s: Mr. Binod Kumar, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 21-04-2015

The Petitioners seek quashing of the order dated 28.05.2013 passed by the 2nd Additional Sessions Judge, Motihari in Cr. Rev. No. 198 of 2011/39 of 2011 by which it has confirmed the order dated 07.09.2011 passed by the Judicial Magistrate, 1st Class, Sikrahana at Motihari in Complaint Case No. 220 of 2011 (Enquiry No. 191 of 2011).

The background facts of the case is that a Complaint was filed before the Sub-divisional Judicial Magistrate, Motihari by the Opposite Party No. 2 alleging therein that his grand father had two brothers who were



allotted their shares of land. Later on in the year 1931, the ancestors of the accused persons had purchased two kathas of land in an auction. In the year, 2011, the accused persons started claiming title of the remaining land of twelve kathas three dhurs and also obtained a registered document from the Registrar Office with regard to the land. When he went to demand an explanation from the accused persons they assaulted and abused him and also committed theft of his personal belongings.

The Magistrate after due inquiry dismissed the Complaint but the Complainant moved the Revisional Court which remanded the matter and thereafter cognizance was taken.

It has been submitted that the subject matter of the present Complaint was that the Petitioners had not obtained lands in auction which fact was adjudicated by Civil Courts which affirmed the stand of the Petitioners. Being aggrieved the Complainant filed the present Complaint with superfluous allegations of assault and theft so as to somehow coerce them into a compromise.

On the other hand, the Counsel for the Complainant submits that since the Petitioners had assaulted him and committed theft of his personal property they should be put on trial.

Having considered the background facts of the

narrative of the Complaint Petition, I would be inclined to hold that the present Complaint is malicious in nature and deserves to be set aside.

Hence, the order dated 28.05.2013 passed by the 2nd Additional Sessions Judge, Motihari in Cr. Rev. No. 198 of 2011/39 of 2011 by which it has confirmed the order dated 07.09.2011 passed by the Judicial Magistrate, 1st Class, Sikrahana at Motihari in Complaint Case No. 220 of 2011 (Enquiry No. 191 of 2011 is, hereby, set aside.

The Application stands allowed.

(Anjana Prakash, J.)

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