

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43646 of 2011

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Ram Naresh Prasad, S/O Late Bindhyachal Prasad, presently residing at
Sohanipatti, P.O.- Sohanipatti, P.S.- Buxar, District- Buxar

.... Petitioner/s

Versus

1. The State Of Bihar
2. Paramhans Sharma, S/O Late Bhawani Sharma, Residing At Mohalla-
Kaji Gali, Ward No.- 13, Police Station- Dumraon, District- Buxar,
Permanent Address Village & P.O.- Siyarampur Pali, District- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binod Bihari Sinha, Adv.

For the Opposite Party/s : Mr. C. Sen Pd. Singh(APP)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 06-02-2015

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the order of
cognizance dated 10.2.2011 passed by Shri K.M. Tiwari, 1st Class,
Judicial Magistrate, Buxar, in Complaint Case No. 337(C) of 2010

On 18.4.1997, an occurrence had taken place for which
two cases were instituted from either side. The case instituted on the
part of the Petitioner proceeded in Trial and the Complainant and
others were convicted.

The complaint filed on behalf of the Complainant was
sent for investigation under Section 156(3) which ended in Final
Report and the same was accepted. Then a Protest-cum-Complaint
petition was filed which was also dismissed. The Complainant then

went to the Revisional Court which set aside the order of dismissal of Complaint and directed further enquiry upon which cognizance was taken. However, this Complaint was once again dismissed on 30.5.2006 on account of non-compliance of issuance of summons. Thereafter, once again, another Complaint was filed in the year 2006 which was also dismissed on 31.3.2010. Thereafter, the present Complaint was filed with allegation that the accused persons came into his house and assaulted him as also committed theft of personal property.

Having considered the background facts and the history of the manner in which earlier Complaints were pursued by the Complainant, I would be inclined to hold that the present Complaint is nothing but an abuse of the process of the Court and deserves to be set aside.

In view of such, the application is allowed and the order of cognizance dated 10.2.2011 passed by Shri K.M. Tiwari, 1st Class, Judicial Magistrate, Buxar, in Complaint Case No. 337(C) of 2010 is hereby set aside.

(Anjana Prakash, J)

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