

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32617 of 2012

Arising Out of Complaint .Case No. -1327 Year- 2009 District- SAMASTIPUR

Sita Ram Mandal, S/o Late Ram Swaroop Mandal, Resident of Village-Sripur
Gohar Tola Bathrraha, P.S.-Khanpur, District- Samastipur

.... Petitioner

Versus

1. The State of Bihar
2. Ganesh Chowdhary, S/o Jadunandan Chowdhary, Resident of Mohalla-Pethiya
Gacchi, Ward No. 23 New P.S.-Town, District-Samastipur

.... Opposite Parties

With

Criminal Miscellaneous No. 24676 of 2013

Arising Out of PS.Case No. -1327 Year- 2009 Thana -SAMASTIPUR COMPLAINT CASE
District- SAMASTIPUR

Shiv Chandra Rai son of late Bal Dev Roy, resident of village Berbata, P.S.-
Mushrighrari, District-Samastipur

.... Petitioner

Versus

1. The State of Bihar
2. Ganesh Chowdhary, S/o Jadunandan Chowdhary, Resident of Mohalla-Pathiya
Gacchi, Ward No. 23 New P.S.-Town, District-Samastipur

.... Opposite Parties

Appearance :

(In Cr.Misc. No. 32617 of 2012)

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Adv.

For the Opposite Party/s : Mr. Vijay Prasad, Adv.

(In Cr.Misc. No. 24676 of 2013)

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 13-04-2015

Counter affidavit filed annexing therein documents

including the order of this High Court wherein it has been held that
the complainant is in possession of the disputed land be kept on
record.

The petitioner of Criminal Miscellaneous No. 32617 of 2012 seeks quashing of order of cognizance dated 18.12.2009 passed by the Judicial Magistrate 1st Class, Samastipur in Trial No. 788 of 2010 arising out of Complaint Case No. 1327 of 2009.

The petitioner in Criminal Miscellaneous No. 24676 of 2013 seeks quashing of order of cognizance dated 17.05.2013 passed by the Judicial Magistrate 1st Class, Samastipur in Trial No. 1345 of 2013 arising out of C.R. No. 1327 of 2009.

The case of the complainant is that while he was putting up a wall, which was next to the government school, the petitioners and others came there and protest whereafter the complainant said that it was his lands and therefore they should not interfere. However, the accused persons went and called the local police who also instructed the complainant not to proceed with the construction of the wall. However, the complainant attempted to show the documents in his favour but the dispute was not resolved. When the Police departed, the complainant once again started continuing with his work on which the accused persons committed theft of his personal possession.

It has been submitted on behalf of the petitioners that they were teachers of a government school and the complainant was in fact trying to disturb the possession of the same, which has led to the institution of the present complaint. A Title and Eviction Suit is

also pending before a court of competent jurisdiction. In this background, the allegation with regard to theft of personal property from the person of the complainant appears to be merely an embellishment with a view to prosecute the petitioners in a criminal case.

On the other hand, the counsel for the complainant submits that as an interim arrangement also this Court decreed that the School Authorities should not disturb his possession. Petitioners being teachers of the school, were not supposed to disturb the complainant.

Having considered the background facts as well as the facts enumerated above, I would be inclined to hold that the present complaint appears to be frivolous and deserves to be set aside. Hence, the applications are allowed and the proceedings is, hereby, set aside.

However, the quashment of the present proceeding shall have no bearing on the claims of the parties.

(Anjana Prakash, J.)

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