

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18887 of 2013

Arising Out of PS.Case No. -99 Year- 2007 Thana -SITAMARHI COMPLAINT CASE District-SITAMARHI

1. Bharat Prasad, son of Late Satya Narayan Prasad, resident of Lichi Bagan, Ward No.18, P.O. and P.S. Sitamarhi, Distt. Sitamarhi

.... Petitioner/s

Versus

1. The State Of Bihar
2. Nageshwar Sharma, son of Sidheshwar Sharma, resident of Ward No. 18, Ring Bandh, P.O. + P.S. Sitamarhi, Distt. Sitamarhi

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Atul Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Devendra Kumar, Advocate

Mr. A. Ansari, APP

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 14-09-2015

The Petitioner seeks quashing of the order of cognizance dated 07.03.2008 passed by the Judicial Magistrate, 1st class, Sitamarhi, in Complaint Case No.99 of 2007.

The case of the Complainant is that on the date of occurrence the Petitioner took away is earth soil worth ₹20,000/- and when he complained he was assaulted.

It has been submitted on behalf of the Petitioner that, in fact, there was a dispute over construction of road which led to institution of a proceeding under Section 144 Cr. P.C. It is in this background that the present Complaint with absurd allegation of theft appears frivolous and deserves to be set aside.

On the other hand, counsel for the Complainant submits that since ingredients of criminal offence is made out in the facts of the case, the Petitioner should be put on trial.

Having considered the background dispute, I would be inclined to hold that the present Complaint is gross abuse of process of the Court and deserves to be set aside.

Hence, the order of cognizance dated 07.03.2008 passed by the Judicial Magistrate, 1st class, Sitamarhi, in Complaint Case No.99 of 2007, is hereby set aside.

The application stands **allowed**.

(Anjana Prakash, J)

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