

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29218 of 2015

Arising Out of PS.Case No. -194 Year- 2014 Thana -BHOJPUR COMPLAINT CASE District-
BHOJPUR

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Sima Devi W/o Umesh Chandra Bhatt, Resident of Village Telarh, P.O.
and P.S. Agiaon Bazar, District Bhojpur.

.... Petitioner

Versus

1. The State of Bihar.
2. Deo Shanker Sharma S/o Prayag Rai, Resident of Village Telarh, P.O.
and P.S. Agiaon Bazar, District Bhojpur.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Vitesh Kumar Singh
Mr. Alok

For the State : Mr. Jharkhandi Upadhyay, APP

For the Opposite Party no2. : None

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 04-09-2015 In the present application filed under Section 482 of the Code of Criminal Procedure, the petitioner seeks quashing of the orders dated 28.11.2014 and 8.1.2015 passed by the Sub-Divisional Magistrate, Piro, Bhojpur in Case No. 194 of 2014.

By order dated 28.11.2014, a proceeding under Section 144 of the Code of Criminal Procedure was initiated which was subsequently converted into a proceeding under Section 145 of the Code of Criminal Procedure vide order dated 8.1.2015. By the aforesaid order, both the parties have been directed to file their respective show causes in the aforesaid

proceedings.

It has been contended that the petitioner is the absolute owner of the property in question and hence the proceedings under Sections 144 and 145 Cr.P.C. are bad in law.

In my view, the argument is misconceived. In exercise of power under Section 144 or Section 145 Cr.P.C., the Executive Magistrate is not empowered to decide title. The object of these Sections is merely to prevent a breach of peace. The action which may be taken is not punitive but preventive. Its only purpose is to ward off commission of breach of peace. A decision of a criminal court in a proceeding under Sections 144 and 145 Cr.P.C. is not binding on civil court. Since the Magistrate has recorded his satisfaction that there is likelihood of breach of peace between the parties concerning land, I see no illegality in the order issuing show-cause. In that view of the matter, the petitioner may file her show cause in respect of the proceeding before the Magistrate in compliance with the impugned order dated 8.1.2015.

The application being devoid of merit is dismissed.

(Ashwani Kumar Singh, J)

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