

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.46709 of 2012**

Arising Out of Complaint Case No. -634 Year- 2009 District- MADHEPURA

- =====
1. Rohini Raman Lal Das, son of late Lakshmi Narayan Das
  2. Suchindra, son of Rohini Raman lal Das, resident of village Narar (North), P.S. Kaulahi, Distt. Madhubani, at present village Gosain Tola, Raghobpur Balat, P.S. Raj Nagar, Distt. Madhubani.

.... .... Petitioner/s

Versus

1. The State of Bihar
2. Shiv Shankar Singh @ Kari Singh, son of late Baulal Singh, resident of village Narar North, P.S. Kaluahi, Distt. Madhubani.

.... .... Opposite Party/s

=====

**Appearance :**

For the Petitioner/s : Mr. Santosh Kumar Verma, Adv.  
For the State : Md. A. Haque Sahara, A.P.P.

=====

**CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH**

**ORAL JUDGMENT**

**Date: 06-07-2015**

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of cognizance dated 9.2.2010 passed by the Chief Judicial Magistrate, Madhubani, in Complaint Case No. 634 of 2009, Trial No. 185 of 2012 arising out of Raj Nagar P.S. Case No. 66 of 2008.

The case of the Complainant is that there was an agreement in the year 2003 by which the Informant was entitled to get 25 per cent of the sale of proceeds of lands and Shisham tree. On 24.4.2008, the Complainant learnt from reliable sources that the Petitioner No. 1 had sold the land and Shisham tree which was under agreement and on the next date when he went to the accused persons

for his share, he was abused and assaulted. In this regard, initially Rajnagar P.S. Case No. 66 of 2008 was instituted. However, after due investigation, Final Report was submitted and on a protest petition which was treated as a Complaint, cognizance was taken.

It has been submitted that the Petitioner No. 1 being an old person, it was not possible for him to cultivate the land and, therefore, he entrusted the land to the Informant for cultivation in the year 2003 by executing a deed of lease before the Notary Public for five years. In the agreement, it was noted that if the lease holder failed to give the grains as per the terms, Petitioner would have the right to terminate the same. When the Complainant did not fulfill the terms of deed, the Petitioner cancelled the same on 8.12.2006 and intimated him immediately. However, thereafter, the First Information Report was instituted creating a fictitious claim.

On the other hand, the counsel for the Complainant submits that since the Petitioners had acted against the terms of agreement, he should be prosecuted.

Having gone through the contents of the First Information Report and other documents, I am inclined to hold that in the facts stated therein, no Criminal offence is made out.

Hence, the application is allowed and the Proceeding including the order of cognizance dated 9.2.2010 passed by the Chief

Judicial Magistrate, Madhubani, in Complaint Case No. 634 of 2009,  
Trial No. 185 of 2012 arising out of Raj Nagar P.S. Case No. 66 of  
2008, is hereby set aside.

**(Anjana Prakash, J)**

S.Ali/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

