

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.23535 of 2012

Arising Out of PS.Case No. -1860 Year- 2010 Thana -null District- SAMASTIPUR

1. Binod Kumar Jha @ Binod Jha S/O Late Sripati Jha
2. Manoj Kumar Jha S/O Late Sripati Jha, both R/O Village - Morwa Dih, P.S.
Musaridharari, Distt. - Samastipur

.... Petitioner/s

Versus

1. The State Of Bihar
2. Suryakant Mishra S/O Late Nageshwar Mishra R/O Village - Morwa Dih, P.S.
Musaridharari, Distt. - Samastipur

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gopal Tiwari, Advocate
For the Opposite Party/s : Mr. Gopesh Kumar, APP
For Opposite Party No.2 : Mr. Sushil Kr. Jha, Advocate

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 06-07-2015

The Petitioners seek quashing of the order of cognizance dated 1.3.2012 passed by the Judicial Magistrate, 1st class, Samastipur in Complaint case No.1860 of 2010.

The case of the Complainant is that on the date of occurrence the accused persons came upon his land and assaulted and abused him and his son and forcibly harvested crops grown by him.

It has been submitted on behalf of the Petitioners that there was a Partition Suit pending between the parties, which was decided in favour of the father of Petitioners No.1 and 2. Thereafter the Complainant filed First Appeal, which also he lost. The claim of

the Complainant was thus nullified by a court of competent jurisdiction and hence no offence whatsoever is made out against the Petitioners for having come upon the said land and harvested the crops.

On the other hand, the Counsel for the Complainant submits that since the Petitioners assaulted and abused him and the land, upon which the accused persons had come, was not subject matter of the civil proceeding, they should be put on trial.

Having considered the unimpeachable document, I would be inclined to accept the submission so raised on behalf of the Petitioners. Hence, the application is allowed and the order of cognizance dated 1.3.2012 passed by the Judicial Magistrate, 1st class, Samastipur in Complaint case No.1860 of 2010 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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