

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29633 of 2014

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Mokhtar Alam, Son of Mahboob Alam, Resident of Village - Dharmparsa,
P.S.- Majhagarh, District – Gopalganj.

.... Petitioner

Versus

1. The State of Bihar,
 2. Abdul Kayum, Son of Sheikh Gulamuddin
 3. Md. Yunus, Son of Sheikh Gulamuddin, Both Resident of Village -
Dharmparsa, P.S.- Majhararh, District - Gopalganj
- Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Dwivedi

For the Opposite Party/s : Mr. Nityanand(App)

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**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL ORDER

3 27-06-2016

Heard.

This application has been filed under Section 482 of the Cr.P.C. against the order dated 17.04.2014 passed in Cr. Revision No. 333 of 2013, whereunder, the learned Addl. District and Sessions Judge-IV, Gopalganj dismissed the aforesaid Criminal Revision of the petitioner preferred against order dated 04.04.2013 passed in case No. 367 of 2013 converting the proceeding of Section 144 Cr.P.C. into Section 145 Cr.P.C. in which the petitioner was the member of the second party and O.P. Nos. 2 and 3 were the members of the first party with direction to appear and file their written statement.

The submission of the learned counsel for the petitioner is that Eviction Suit No. 367 of 2012 filed by the O.P. No. 3 against the petitioner is pending before the Court of Sub-Judge-I, Gopalganj

regarding the same and partition suit No. 282 of 2013 filed by the O.P. No. 2 and 3 against the co-sharer including the vendor of the petitioner is also pending. As such impugned order dated 17.04.2014 affirming the order dated 04.04.2013 passed in Case No. 367 of 2013 by the S.D.M. Gopalganj converting the proceeding under Section 144 Cr.P.C. into Section 145 Cr.P.C. is bad in law.

On perusal of the impugned order, I find no illegality to interfere with the same in extraordinary jurisdiction under Section 482 Cr.P.C. and accordingly the present application is dismissed. As far as submission of the learned counsel for the petitioner is concerned, he is at liberty to raise his objection under Section 145(5) Cr.P.C. to drop the proceeding of Section 145 Cr.P.C.

(Rajendra Kumar Mishra, J)

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