

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 49743 of 2014

Arising out of P.S. Case No. - 2098 Year - 2011 Thana - SARAN COMPLAINT CASE District - SARAN

Ashok Singh, Son of Late Rameshwar Singh, Resident of Village - Kothiya, Police Station - Jalalpur, District - Saran at Chapra

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate, Saran at Chapra
3. The Superintendent of Police, Saran at Chapra
4. The Circle Officer, Jalalpur, Saran at Chapra
5. Lalan Singh Father name not know, The Then Circle Officer, Jalalpur, Saran at Chapra
6. The Officer In Charge of Police Station, Jalalpur, Saran at Chapral
7. A.N. Singh Father name not Known, A.S.I., Jalalpur, Saran at Chapra
8. Santosh Singh, Son of Swaminath Singh
9. Mithileshwar Singh, Son of Late Punyadeo Singh Both 8 and 9 are resident of village - Kothiya, Police Station - Jalalpur, District - Saran at Chapra

.... Opposite Parties

Appearance :

For the Petitioner : Mr.

For the Opposite Parties : Mr.

CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL JUDGMENT

Date: 29-04-2016

Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State.

This is a petition for quashing the order dated 16.09.2014 passed by the learned 8th Additional Sessions Judge, Saran, Chapra in Cr. Revision No. 118 of 2014 by which he has affirmed the order dated 20.03.2014 dismissing the complaint under Section 203 of the Cr.P.C. passed in Complaint Case No. 2098 of 2011 by the learned Chief Judicial Magistrate, Saran.

The prosecution case, as alleged in the complaint petition, is that complainant has got a land bearing Khata No. 261,



Plot Nos. 1640, 1778, 1779, 1780 and 1781 having an area of 3 Bigha, 18 Katha, 19 Dhur in which the complainant constructed a Dalan and the same was used to keep the food grains and agriculture equipments and his family members also lived there. It is further alleged that on 30.07.2011 the accused persons went at the Dalan of the complainant and started loading the articles on a tractor which was kept at the Dalan and when the complainant objected then the accused persons abused and assaulted him as a result of which he sustained injuries. It is further alleged that the accused persons loaded 10 quintals paddy, 10 quintals wheat, 1 Tangi, 2 farsa, 2 brass bucket, 40 Kg. 4" plastic pipe of Rs.20,000/- on the tractor and locked the Dalan. It is further alleged that still 20 quintals of wheat is lying in the Dalan of the complainant which was locked by the accused persons. The further case is that the complainant moved the police station and disclosed about the occurrence but the police refused to lodge a case so the complaint case has been filed.

On the said complaint, the complainant and the witnesses were examined and even a report was called for from the police and taking into consideration the statement of the complainant and the witnesses as well as report called for by the police, the Chief Judicial Magistrate, Saran dismissed the complaint and the reason assigned that as per the report of the police the complainant had



encroached the building of Government Middle School, Kothayan and had put his food grains and other articles therein for which Land Encroachment Case No. 11 of 2011-12 was instituted against him and the same was evicted from the premises of the said school and articles removed therefrom were handed over to local Chaukidar on Jimanama. The report further discloses overt acts and frantic attempts made by the complainant to grab public/government land. However, the grounds mentioned is that since the complainant has been evicted from the said premises by due process of law in consonance with the Land Encroachment Case No. 11 of 2011-12, so the learned Magistrate found the case filed with ulterior motive and dismissed the complaint.

Against the dismissal of the complaint, the revision was preferred by the petitioner before the Sessions Judge and the Sessions Judge also dismissed the revision.

The learned counsel for the petitioner, however, contended that out of 3 Bigha, 18 Katha, 19 Dhurs only 2 Katha, 8 dhur were donated in 1966 to the school and petitioner is in possession of the rest land.

However, the aforesaid fact has not been mentioned in the complaint petition rather in the complaint petition there is no whisper about donating the land to the school or about the Land

Encroachment Case No. 11 of 2011-12 which fact has been supported by the complainant and has not come with the clean hand.

Hence, having regard to the facts and circumstances of the case, I do not find any merit in the petition and the same is, accordingly, dismissed.

(Gopal Prasad, J)

Kundan/-

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