

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44064 of 2013

Arising Out of PS.Case No. -3210 Year- 2012 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

- =====
1. Dina Nath Sharma @ Dina Sharma S/O Late Laxmi Sharma Resident Of Village- Jagarnathpur, P.S- Gopalpur, District- Gopalganj.
 2. Baijnath Sharma S/O Late Laxmi Sharma Resident Of Village- Jagarnathpur, P.S- Gopalpur, District- Gopalganj.
 3. Sri Kant Sharma S/O Dina Nath Sharma Resident Of Village- Jagarnathpur, P.S- Gopalpur, District- Gopalganj.
 4. Rati Kant Sharma S/O Dina Nath Sharma Resident Of Village- Jagarnathpur, P.S- Gopalpur, District- Gopalganj.
 5. Kalawati Devi W/O Dina Nath Sharma Resident Of Village- Jagarnathpur, P.S- Gopalpur, District- Gopalganj.
 6. Ramawati Devi W/O Kedar Sharma Resident Of Village- Jagarnathpur, P.S- Gopalpur, District- Gopalganj.
 7. Shashi Devi W/O Vishwanath Sharma Resident Of Village- Jagarnathpur, P.S- Gopalpur, District- Gopalganj.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Umashanker Sharma S/O Late Kanhaiya Sharma Resident Of Village- Jagarnathpur, Post- Sonhula, P.S- Gopalpur, District- Gopalganj.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 18-03-2016

The petitioners seek quashing of the order of cognizance dated 04.09.2013 passed by the Judicial Magistrate 1st Class, Gopalganj in Trial No. 2838 of 2013 arising out of Complaint Case No. 3210 of 2012.

The case of the complainant is that he had purchased certain piece of land but the accused persons started to disturb his possession and also committed theft of his paddy crop.

The submission on behalf of the petitioners is that in fact there was land dispute between the parties since both of them asserted their

legal right over it, on account of which the S.D.O had sent the local police for enquiry which submitted report on 15.11.2012 showing that the petitioners were in possession of the land in question. A proceeding under Section 144 Cr.P.C was also initiated restraining both the parties to go upon the land. Thereafter the lands were attached under Section 146(1) Cr.P.C and a receiver was appointed on 31.07.2013. In such circumstances, evidently the allegations in the complaint petition is unjustified.

On the other hand counsel for the complainant submits that since the petitioner had stolen his paddy crop grown by him they should be put on trial.

Having considered the vague nature of allegations and background of dispute, the application is allowed and further proceeding including the order of cognizance dated 04.09.2013 passed by the Judicial Magistrate 1st Class, Gopalganj in Trial No. 2838 of 2013 arising out of Complaint Case No. 3210 of 2012 as also in their interest Trial no. 865 of 2016 arising out of Gopalpur P.S. Case No. 3525 of 2012 pending in the Court of learned Additional Chief Judicial Magistrate 13, Gopalganj, are hereby set aside.

(Anjana Prakash, J)

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