

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30517 of 2013

Arising Out of PS.Case No. -576 Year- 2010 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

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1. Md. Yasin S/O Late Md. Hanif Resident of Village- Sareya Ward No.- 1, P.S.
And District- Gopalganj

.... Petitioner/s

Versus

1. The State Of Bihar
2. Yogendra Pandey S/O Late Shree Ram Pandey Resident of Village- Bhitbherwa,
P.S. And District- Gopalganj
3. Guddu Kumar Yadav S/O Nagendra Yadav Resident of Mohalla- Sareya Ward
No. 1, P.S. And District- Gopalganj
4. Kanhaiya Prasad S/O Nageshwar Prasad Resident of Mohalla- Sareya Ward No.
1, P.S. And District- Gopalganj
5. Brij Yadav S/O Late Jawahar Yadav Resident of Mohalla- Sareya Ward No. 1,
P.S. And District- Gopalganj
6. Ramadhar Yadav @ Ramachar Yadav S/O Late Dina Nath Yadav Resident of
Mohalla- Sareya Ward No. 1, P.S. And District- Gopalganj

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Sufiyan, Adv.

For the Opposite Party/s : Mr. Prem Kumar Jha, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 02-08-2016

In the present application preferred under Section 482 of the Code of Criminal Procedure (for short 'CrPC'), the petitioner has challenged the order dated 17.04.2013 passed by the learned Sessions Judge, Gopalganj in A.B.P. No. 478 of 2013 arising out of Complaint Case No. 576 of 2010 by which the court below, while disposing of the application for pre-arrest bail of the opposite parties no. 2 to 6, observed as under :-

“It is evident that there is claim and counter claim of both the parties over the disputed piece of land which can be decided only by civil litigation and not by a criminal proceeding”.

It is submitted that though the learned Sessions Judge did not grant relief to the opposite parties no. 2 to 6 on the petition filed under Section 438 of the CrPC and directed them to surrender within 15 days and seek regular bail, the aforesaid observation made by the learned Sessions Judge would prejudice to the case of the complainant.

In my view, the application is misconceived. It has fairly been submitted in course of argument by the learned counsel for the petitioner that the opposite parties no. 2 to 6 have already surrendered before the court below and have been granted bail. The case has proceeded ahead after taking cognizance of the offence and the matter is pending adjudication before a court of Magistrate on merits.

It is well settled that any observation made by a court in a proceeding either under Section 438 or Sections 439 and 440 of the CrPC does not have any bearing on the merit of the case when the matter is finally adjudicated by the court. Such observation is of no consequence so far as the merit of the trial is concerned.

In that view of the matter, the apprehension of the petitioner that the observation made by the learned Sessions Judge, as quoted above, may cause prejudice to the right of the petitioner is unfounded.

Accordingly, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	-----
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