

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25894 of 2016

Arising Out of PS.Case No. -51 Year- 2016 Thana -DALSINGHSARAI District- SAMASTIPUR

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1. Rajendra Singh @ Rajendra Prasad Sing Son of Late Baleshwar Singh
 2. Birendra Singh Son of Rajendra Singh @ Rajendra Pd. Singh Both are resident of village- Basadhiya, P.S.- Dalsing Sarai, District- Samastipur

.... Petitioner/s

Versus

1. The State of Bihar
2. Ramesh Prasad Son of Late Siya Ram Sah Resident of village- Bhagwanpur Chaksekhu Ward No.-6, P.S.- Dalsing Sarai, District- Samastipur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Sinha

For the Opposite Party/s : Mr. Sri Rajeev Nayan

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 02-09-2016

The present application has been filed for quashing the First Information Report of Dalsing Sarai P.S. Case No. 51 of 2016 registered under Sections 341, 323, 384, 385, 379, 447, 504/34 of the Indian Penal Code.

It is submitted by learned counsel for the petitioners that in the background of land dispute the accusation has been levelled when no specific overt act has been alleged against the petitioners. It is further submitted that vide Non-F.I.R No. 8/16/2016, the 144 Cr.P.C proceeding was recommended to be initiated on the recommendation of Sub-inspector of Police, Dalsing Sarai police station and subsequently notices were issued by the learned Sub-Divisional Judicial Magistrate, Dalsing Sarai on initiation of M. R. Case

No. 62 of 2016. The same was challenged in Cr. Revision No. 140 of 2016 before learned Sessions Judge, Samastipur when the initiation of 144 Cr. P.C proceeding passed by learned Sub-Divisional Judicial Magistrate, Dalsing Sarai vide order dated 17.02.2016 was quashed on the ground that the question of dispute with regard to title can not be resolved in 144 Cr.P.C proceeding.

It is the settled law that the prosecution of the F.I.R can be quashed if the accusation does not constitute prima facie cognizable case or the prosecution is barred under certain law. Hence, this Court is not inclined to interfere. Moreover the case was registered on 10.02.2016 but there is nothing on record to suggest the present stage of the case.

Accordingly the application is disposed of with liberty to the petitioners to raise all the contentions after submission of the final report under Section 173(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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