

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.1611 of 2015

Arising Out of PS.Case No. -105 Year- 2008 Thana -SANGRAMPUR District-
EASTCHAMPARAN(MOTIHARI)

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1. Tapsi Bhagat Son of Late Tripal Bhagat
2. Shankar Bhagat Son of Ramashraya Bhagat
3. Babu Lal Bhagat Son of Tapsi Bhagat
4. Lallan Bhagat Son of Tapsi Bhagat All are Residents of Village-
Madhubani, P.S-Sangrampur, Distt.-East Champaran

.... Petitioners

Versus

1. The State of Bihar
2. Narsing Yadav Son of Late Baidhnath Yadav Residents of Village-
Madhubani, Ward No.11, P.S-Sangrampur, Distt.-East Champaran

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Sanjay Kumar No.-7, Advocate.
For the Opposite Parties : Mr. Jitendra Kumar Singh (App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

6 23-12-2016 Heard Mr. Sanjay Kumar no. 7, learned counsel for

the petitioners, learned APP for the State but none appeared on

behalf of opposite party no. 2.

The petitioner has preferred this petition for quashing
the order dated 01.08.2012 passed by the learned Chief Judicial
Magistrate, Motihari in Sangrampur P.S. Case No. 105 of 2008 by
which the Chief Judicial Magistrate, Motihari took cognizance
under Sections 341, 323, 324, 447, 504 and 34 of the Indian Penal
Code.

The brief facts relevant for the disposal of this case is
that the informant alleged that he got a piece of land in Kol



Morkha Chanwar in which he sowed paddy crops. The accused persons seven in numbers were harvesting his paddy crops when the informant asked them not to harvest the paddy crops the accused persons are alleged to have assaulted the informant and others. The police after investigation submitted final form finding the case true under Sections 324, 323, 447, 341, 504 and 34 of the Indian Penal Code. The Chief Judicial Magistrate, Motihari took cognizance vide order dated 01.08.2012.

Sri Sanjay Kumar no. 7, learned counsel for the petitioners assailed the order taking cognizance on the ground that the informant has not stated the survey plot number of the land. The informant has got no land in the vicinity of the place of occurrence. Prior to the present case, the accused filed the case against the informant and others. The informant and others wanted to dispossess the petitioners from the land that is why the informant filed the case without giving the plot number of the land. It is further submitted that the present prosecution is malicious but I do not find any force in the submissions of the learned counsel for the petitioner on the simple ground that the Chief Judicial Magistrate, Motihari took cognizance on the materials available on record. The principle for quashing the order taking cognizance is whether on the materials available on record,



prima facie case is made out if not rebutted, I find that on the basis of materials available on record, the learned Chief Judicial Magistrate, Motihari has rightly taken cognizance under Sections 324, 427, 323, 504, 341 and 34 of the Indian Penal Code.

Considering the facts aforesaid, I do not find any merit in this case. Accordingly, the same is dismissed with liberty to the petitioner to raise all these points at the time of framing of charge.

(Prabhat Kumar Jha, J.)

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