

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32142 of 2013

Arising Out of PS.Case No. -null Year- null Thana -null District- PATNA

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1. Ram Krit Yadav, Son Of Late Ram Briksh Rai, Resident Of New Karbigahiya, Near Kabristan, P.S. - Jakkanpur, District - Patna
 2. Jurwan @ Ramsewak Yadav, Son Of Ramkrit Yadav, Resident Of New Karbigahiya, Near Kabristan, P.S. - Jakkanpur, District - Patna
 3. Mallu Yadav @ Bablu Kumar, Son Of Ram Krit Yadav, Resident Of New Karbigahiya, Near Kabristan, P.S. - Jakkanpur, District - Patna
 4. Krishna Prasad, Son Of Late Ram Brishk Yadav, Resident Of Peoples Co-Operative Colony, Kankarbagh, Quarter No. D/60, P.S. - Kankarbagh, District - Patna
 5. Kishore Prasad @ Kishore Kumar, Son Of Krishna Prasad, Resident Of Peoples Co-Operative Colony, Kankarbagh, Quarter No. D/60, P.S. - Kankarbagh, District - Patna
 6. Manoj Kumar, Son Of Krishna Prasad, Resident Of Peoples Co-Operative Colony, Kankarbagh, Quarter No. D/60, P.S. - Kankarbagh, District - Patna
 7. Raju Kumar, Son Of Krishna Prasad, Resident Of Peoples Co-Operative Colony, Kankarbagh, Quarter No. D/60, P.S. - Kankarbagh, District - Patna
 8. Arun Kumar, Son Of Late Deonath Rai, Resident Of Karbigahiya, Adjacent Of South Flat No. 10, P.S. - Jakkanpur, District - Patna
 9. Chandeshwar Prasad, Son Of Late Laldas Rai, Resident Of Karbigahiya Flour Mill, P.S. - Jakkanpur, District - Patna
 10. Uday Prasad, Son Of Chandeshwar Prasad, Resident Of Karbigahiya Flour Mill, P.S. - Jakkanpur, District - Patna
 11. Raj Kumar Singh, Son Of Sita Ram Singh, Resident Of Village - Ram Nagar, P.S. - Jakkanpur, District - Patna
 12. Chhotu Singh, Son Of Raj Kumar Singh, Resident Of Village - Ram Nagar, P.S. - Jakkanpur, District - Patna

.... Petitioners

Versus

1. The State Of Bihar
2. Santosh Rai (Neta Jee), Son Of Ram Chandra Prasad, Resident Of Karbigahiya, P.S. - Jakkanpur, District - Patna

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Shivendra Kr. Sinha, Advocate
For the Opposite Parties : Mr. C. Jawahar (APP)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 09-01-2017

Heard the parties.



The petitioners seek quashing the order dated 03.05.2013 passed by learned Judicial Magistrate-1st Class, Patna in connection with Complaint Case No. 2229(C) of 2012 by which the learned Magistrate has took cognizance under Sections 341, 323, 385 of the Indian Penal Code.

In the instant case notice was served but in spite of valid notice, none has appeared on behalf of the Opposite Party No.2.

Counsel for the petitioners has submitted that the instant criminal proceeding is totally an abuse of the process of law as the complainant has already been restrained by the order of DCLR passed in Land Dispute Case No.83 of 2011-12 on 15.12.2012, from going over the land in dispute and making any interference in the possession of the petitioners. The complainant has alleged in the complaint petition that accused persons have committed overt act with intention to grab the land of Ward No.29, Circle No.8A, Plot No.374 which is the same land as mentioned in land dispute case no.83 of 2011-12 order dated 15.12.12 passed by learned DCLR. From impugned order it appears that the learned Magistrate in mechanical manner took cognizance against the accused persons/petitioners for the offences under Section 341, 323 and 385 of the Indian Penal Code. In such circumstances this court is of the view that further proceeding in the aforesaid case in the facts stated above is an abuse of process of the



law and, therefore, the impugned order is fit to be quashed.

Therefore, the impugned order and the entire proceeding of Complaint Case No. 2229(C) of 2012 is hereby quashed. The instant application is accordingly allowed.

(Sanjay Priya, J.)

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