

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42342 of 2013

Arising Out of PS.Case No. -1473 Year- 2011 Thana -ROHTAS COMPLAINT CASE District-
SASARAM (ROHTAS)

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1. Rameshwar Pandey Son of Late Awadh Bihari Pandey R/O Village + P.O.-
Khurhia, P.S.-Sheosagar, Distt-Rohtas
2. Ayodhya Pandey Son of Late Kishun Bihari Pandey R/O Village + P.O.-Khurhia,
P.S.-Sheosagar, Distt-Rohtas
3. Ashok Kumar Pandey Son of Sri Ayodhya Pandey R/O Village + P.O.-Khurhia,
P.S.-Sheosagar, Distt-Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar
2. Sudama Pandey Son of Sri Kameshwar Pandey R/O Village + P.O.-Khurhia,
P.S.-Sheosagar, Distt-Rohtas

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Mahesh Prasad No. 2 and
Mr. Rewti Kant Raman, Advocates.

For the Opposite Party/s : ----

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 21-06-2017

Heard Sri Mahesh Prasad No. 2, learned counsel for the
petitioners.

Although the name of the learned advocate for the
opposite party no. 2 appears on the cause list, however, no one
appears for the opposite party no. 2. No one represents the State.

The petitioners in the present case are seeking quashing
of the order dated 08.02.2013 passed by the learned Judicial
Magistrate 1st Class, Sasaram in Complaint Case No. 1473(C) of 2011
by which he has taken cognizance against the petitioners under



Sections 341/323/504 of the Indian Penal Code.

Learned counsel for the petitioners submits that a bare perusal of the complaint petition giving rise to Complaint Case No. 1473(C) of 2011 would show that in fact a civil dispute has been given a colour of criminal proceeding. Learned counsel has taken me through the complaint petition, on a reading of the same, it appears that the parties are fighting civil litigations claiming their right, title and possession over certain piece of land and some dispute arose between the parties on harvesting of the crops. In Paragraph 10 of the petition, the petitioners have given a detailed description of the title suits and the consolidation revision which are pending in the Civil Court and before the Director (Consolidation) respectively. Learned counsel has further submitted that in the complaint petition although five persons were named as witnesses, however, not a single witness was produced before the learned Magistrate taking cognizance in the present case. Despite service of notice, the opposite party no. 2 has not controverted the statements made by the petitioners regarding the ongoing civil litigations.

In the facts and circumstances of the case and upon perusal of materials available on the record this Court is of the opinion that no *prima facie* case is made out and, hence, the order taking cognizance dated 08.02.2013 passed by the learned Judicial Magistrate 1st Class,



Sasaram in Complaint Case No. 1473 (C) of 2011 is fit to be quashed.

Accordingly, this Court set aside the aforesaid order dated 08.02.2013 passed in Complaint Case No. 1473(C) of 2011.

The application stands disposed of.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22.06.2017
Transmission Date	N/A

