

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12210 of 2014

Arising Out of P.S.Case No. -174 Year- 2013 Thana -MUZAFFARPUR SADAR District-
MUZAFFARPUR

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1. Maksood Alam Son of Md. Shoaib Alam
2. Manzar Alam Son of Md. Shoaib Alam
3. Md. Raja Son of Late Md. Gulab
4. Md. Shoaib Alam Son of Late Md. Olay
5. Md. Ejaz Son of Late Md. Islam
6. Md. Sohail Son of Late Md. Olay, All Are Resident of Village - Madhopur Susta,
P.S. - Maniyari, District - Muzaffarpur

.... Petitioners

Versus

1. The State Of Bihar
2. Harendra Prasad Sing, Junior Engineer, Tirhut Nahar Pariyojna, Ratwara,
District - Muzaffarpur

.... Opposite Parties

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Appearance :

For the Petitioners : Mrs. Bela Singh, Advocate
For the Opposite Party No.2 : Mr. Rajendra Singh Shastri, Advocate
For the State : Mr. Bharat Bhushan, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 24-07-2017

Heard.

2. This is an application under Section 482 of the Cr.P.C. to quash the order dated 10.02.2014 passed by CJM, Muzaffarpur. As per impugned order the learned CJM finding prima-facie case for the offence under Sections 447, 448, 188/34 of the IPC ordered for issuance of summons against the petitioners'.

3. The facts in brief is that a police case vide Muzaffarpur Sadar P.S.Case No.174 of 2013 was registered against the petitioners on the written report of Junior Engineer, Tirhut Canal Project, Ratwara, Muzaffarpur. It has been alleged that the petitioners embedded pillars over the government land measuring four bigha. The said land was being settled by Executive Engineer/Sub-Divisional



Officer, Tirhut Nahar Project, sub-division since last 30 years. The matter was investigated and on the basis of police report, the CJM took cognizance against the petitioners under the aforesaid sections.

4. Learned counsel for the petitioners submits that the police have submitted chargesheet without entering into investigation. Neither the informant nor the police who investigated the matter has mentioned the detail of land over which these petitioners took possession. The land of plot number 1443 is the ancestral land of these petitioners and the same are coming in their possession since several years. In support of his contention, he referred photo copy of revisional certificate Khatian. The land measuring two acres ninety six decimals is recorded in the name of Anwar Nabi alias Wazir Akhtar, son of Abdul Gaffar, Bibi Maimuna, wife of Ale Navin and Wahirul @ Gulab, son of Md. Amir having one share each under khata no.12. The Opposite Party No.2 although filed counter affidavit but he has not denied this fact that the said land stands recorded in the name of ancestor of these petitioners. There is no mention of details of land either in the written report or in the statement of witnesses recorded by I.O. in the case diary. The police report is vague on this point. In this regard, a report was called for from the Officer-in-Charge of Muzaffarpur Sadar P.S. with regard to actual title/possession of the land in question involved in the present Sadar P.S.Case No.174 of 2013 vide order dated 24.11.2014. The Senior Superintendent of Police vide letter no.3141 dated 15.12.2014 has submitted report to this effect that the land in dispute, which is subject matter of the present case was found in possession of the descendants of recorded tenant. The police have not mentioned about possession or title of the government. The cognizance has been taken on vague report and on that basis prosecution of the petitioners in my view would amount to abuse of the process of the Court.



5. In view of the aforesaid facts, the impugned order dated 10.02.2014 passed by CJM, Muzaffarpur in Muzaffarpur Sadar P.S.Case No.174 of 2013/G.R.No.2068 of 2013 is hereby quashed. This application is accordingly allowed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	31.07.2017
Transmission Date	31.07.2017

