

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41821 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- BEGUSARAI

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1. Narain Prasad Singh @ Narain Singh S/O Late Damodar Singh Resident Of
Village- Chandpur, Police Station- Neema Chandpur, District- Begusarai

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner	:	Mr. Ramakant Sharma, Sr. Advocate. Mr. Rajesh Kumar, Adv. Mr. Rabindra Kumar, Adv.
For the State	:	Mr. Nagendra Prasad, APP.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 06-10-2017

This petition has been filed to quash the order dated 17-12-2009 passed by Sri Sharad Chand Kumar, Judicial Magistrate-Ist Class, Begusarai in Nima Chandpur P.S. Case No. 03 of 2008, by which, the learned Magistrate has found prima facie case against the petitioner for the offence under Sections-420, 467, 468, 471, 472, 504, 506 of the Indian Penal Code.

Counsel for the petitioner has submitted that the petitioner and the informant are own brothers. The instant case has been filed by the informant on account of dispute for partition with mala fide intention to harass the petitioner. The informant has appeared through lawyer whose name is also appearing in daily cause list but during hearing of this petition, none appears on behalf of the informant.

Counsel for the State has appeared and submitted that there is no illegality in the impugned order.



It is alleged in the written report, that one tractor was purchased by joint family property. The petitioner brought the tractor at his Darwaza and changed the number by fresh paint over the same.

Counsel for the petitioner has submitted that the aforesaid tractor is already registered in the name of this petitioner vide Annexure-5. He has also pointed out towards Annexure-6 whereby the registration made in favour of the informant was found to be incorrect and the same was cancelled by the DTO, Begusarai.

From the averments made in the written report, it appears that there has been dispute for partition between both the brothers. The instant case has been filed by the informant against this petitioner merely out of mala fide to take vengeance and harass the petitioner.

In such circumstance, the impugned order dated 17-12-2009 passed by the court below is not in accordance with law.

Accordingly, the impugned order dated 17-12-2009 passed by Sri Sharad Chand Kumar, Judicial Magistrate-Ist Class, Begusarai in Nima Chandpur P.S. Case No. 03 of 2008 along with entire criminal proceeding against the petitioner is quashed.

This Cr. Misc. application is therefore, allowed.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	13-10-2017
Transmission Date	13-10-2017

