

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48606 of 2013

Arising Out of PS.Case No. -66 Year- 0 Thana -BANMANKHI District- PURNIA

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1. Ramdeo Mandal
 2. Shyam Deo Mandal
 3. Nandlal Mandal
All sons of Late Anup Lal Mandal
 4. Bhim Mandal, son of Ramdeo Mandal
 5. Ram Prasad Mandal
 6. Dinesh Mandal
Both sons of Jitan Mandal
All resident of Village- Rampur Tilak, Gorhi Tola, P.S.- Janki Nagar,
District- Purnea.

.... Petitioners

Versus

1. The State Of Bihar
2. Saryug Rishi Dev, Son Of Late Jamun Rishi Dev, Village- Rampur
Tilak, Gorhi Tola, P.S.- Janki Nagar, District- Purnea

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Sudhir Kumar Thakur, Advocate
Mr. Sourabh Upadhaya, Advocate
Miss. Jagriti Kumari, Advocate

For the Opposite Party : Mr. Ramshankar Das (Spl.P.P.)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

6 22-06-2017 This Criminal Miscellaneous has been filed for quashing the order dated 04.09.2012 passed by the learned Chief Judicial Magistrate, Purnea in Banmankhi (Janki Nagar) P.S. Case No. 66 of 2007 whereby and whereunder after differing with the police report he took cognizance against the petitioners under Sections 144, 447, 504 of the Indian Penal Code, Section 27 of Arms Act and Section 3(I-IV) (I-X) of Prevention of Atrocities against Scheduled Caste and Scheduled Tribes Act.



Heard the learned counsel for the petitioners and learned A.P.P. for the State.

On the basis of First Information Report lodged by Suryug Rishi Dev the aforesaid case was registered with allegation that when the informant was ploughing his field by the Tractor, in the meantime, all F.I.R. named accused persons including 20 unknown persons armed with deadly weapons came and started hurling the arrow and fired also resulting, the informant fled away with tractor and driver, son and other villages have seen the occurrence. The informant claimed that he is the owner of the disputed land and he is in possession over the land since several years but Ramdeo Mandal went to eject him from the land in question. The police took up investigation and after competing investigation submitted final form considering the dispute as of land dispute. The learned Chief Judicial Magistrate after differing with the opinion passed the impugned order.

On behalf of the petitioners it is submitted that the land in question originally belonged to Julum Singh and Harkishor Singh who have filed a Title Suit No. 1066 of 1959 against the father of the informant and aforesaid Title Suit was decided in favour of Julum Singh and Harkishor Singh and



accordingly decree was prepared in the name of Jamuna Singh son of Julum Singh and Harimohan Singh son of Modo Singh against Jamuna Musahar and others. The petitioner nos. 1, 2 and 3 have purchased the land though registered sale deed no. 156 dated 20.01.2006 from the sons of Jamuna Singh, the decree holder and they are in possession since then but giving wrong assertion F.I.R. has been lodged by way of supplementary affidavit, copy of decree and copy of sale deed have been brought on the record, vide Annexure-2, in the case diary also there is no material to find prima facie case against the petitioners in the aforesaid sections. The petitioners being rightful owners cannot be sued in such a case and this case is glaring example of malicious prosecution.

The learned A.P.P. after going through the supplementary affidavit and its Annexures fairly submits that the petitioners appear as rightful owners of the disputed land and the investigating officer after considering all these materials has submitted final form.

In the facts and circumstances stated above, considering the dispute purely of civil nature and further considering that the impugned order is not based on the materials collected during investigation and, as such, the same is



hereby quashed.

In the result, this Criminal Miscellaneous is hereby allowed and impugned order dated 04.09.2012 passed by the learned Chief Judicial Magistrate, Purnea in Banmankhi (Janki Nagar) P.S. Case No. 66 of 2007 is hereby quashed.

(Jitendra Mohan Sharma, J.)

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