

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43905 of 2014

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Jata Mahto Son of Late Yamuna Mahto Resident of Village - Basantpur,
P.S. - Mainatand, Distt. - West Champaran.

.... Petitioner

Versus

1. The State of Bihar
2. Ved Prakash Son of Late Nathuni Prasad Resident of Village -
Basantpur, P.S. - Mainatand, Distt. - West Champaran.

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Umesh Chandra Verma

For the Opposite Party : Mr. S.D.Singh Yadav(App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

3 16-10-2017 Heard learned Counsel for the petitioner and the
learned Counsel for the State.

This application has been filed for quashing the order dated 2.9.2014 passed by 2nd Additional Sessions Judge, West Champaran, Bettiah in Cr. Rev. No. 211 of 2013 setting aside the order dated 27.8.2013 passed by SDO Narkatiaganj, West Champaran in Case No. 985 of 2013.

Learned Counsel for the petitioner submits that a fresh report may be called from the court concerned regarding the present apprehension of breach of peace on behalf of the petitioner with regard to possession of the land.

Earlier a proceeding under Section 145 Cr.P.C. in Case No. 985 of 2013 was dropped by order dated 27.8.2013 on the



ground that earlier the proceeding under Section 144 initiated between both sides was dropped, but the learned 2nd Additional Sessions Judge, West Champaran, Bettiah while setting aside the said order has directed to proceed further in the matter.

So having considered the submission of both sides and on perusal of the record, it appears that a proceeding under Section 145 Cr.P.C. in Case No. 985 of 2013 was initiated between both sides considering the report of SHO of the concerned Police Station regarding the existing dispute between both sides relating to the land mentioned in the order, which may cause breach of peace or likely to cause breach of peace but the proceeding was dropped by the Magistrate under Section 145(5) Cr.P.C. only on the basis that a proceeding earlier initiated between them under Section 144 Cr.P.C. was dropped, which is not a good reason for dropping a proceeding under the said provision. The Magistrate has to be satisfied under Section 145(5) Cr.P.C. from the materials produced by the party concerned that no dispute regarding the land between the parties exists or existed, unless that is shown the proceeding cannot be dropped. Learned Additional Sessions Judge has rightly set aside the order as the proceeding was dropped without a valid ground.

The Court does not find any illegality in the impugned



order, so this application stands dismissed.

Let the Magistrate proceed in the proceeding under Section 145 Cr.P.C. if the dispute regarding the land concerned still exists and there is likelihood of breach of peace in order to conclude the factum of possession of the land concerned between the parties.

(Arun Kumar, J.)

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