

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.47199 of 2013**

Arising Out of PS. Case No.-5 Year-2012 Thana- BHEJA District- Madhubani

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SURENDRA JHA SON OF LATE DAYA KANT JHA RESIDENT OF  
VILLAGE- DALDAL, POLICE STATION- BHEJA, DISTRICT-  
MADHUBANI.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Brahmdeo Thakur Son Of Late Jugeshwar Thakur Resident Of Village-  
Daldal, Police Station- Bheja, District- Madhubani.
3. Madan Thakur Son Of Late Jugeshwar Thakur Resident Of Village-  
Daldal, Police Station- Bheja, District- Madhubani.

... .. Opposite Party/s

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**Appearance :**

|                          |   |                               |
|--------------------------|---|-------------------------------|
| For the Petitioner/s     | : | Mr. Shailendra Kumar Jha, Adv |
| For the State            | : | Mr. NAWAL KISHORE PD.(APP)    |
| For the Opposite Party/s | : | Mr. Gagandeo Yadav, Adv       |

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**CORAM: HONOURABLE MR. JUSTICE S. KUMAR**  
**ORAL JUDGMENT**

**Date : 02-08-2017**

Heard learned counsel for the parties.

The present application under Section 482 of the  
Cr.P.C has been filed for quashing the order dated 10.05.2012,  
passed by learned Sessions Judge, Madhubani in Anticipatory Bail  
Petition No. 287 of 2012, whereby and whereunder, the court below  
has dismissed the anticipatory bail petition of the petitioner as not  
maintainable, however, by the same order impugned, the court below  
has directed not to take any coercive action against the Opposite



Party Nos. 2 and 3.

Briefly stated, the complainant had filed a petition before the A.C.J.M., Jhanjharpur, on 29.11.2011 alleging therein that he had purchased a piece of land on 01.07.1944 in the name of his mother and was in peaceful possession of the land and Jamabandi was also created. It has been further alleged that the accused persons namely Brahmdeo Thakur and Madan Thakur, had sold the aforesaid land to one Md. Suleman so that the crop on the aforesaid land could be harvested by him. On 23.11.2011 the petitioner-informant went at the Darwaja of accused persons who abused him and also took away his mobile phone and some money from his pocket. On the basis of the complaint filed by the petitioner, S.H.O. Bheja P.S. Case No. 05 of 2012 was registered. The petitioner had named three persons as accused namely Brahmdeo Thakur, Madan Thakur and Md. Suleman. Opposite Party Nos. 2 and 3 namely, Brahmdeo Thakur and Madan Thakur filed anticipatory bail petition before the Sessions Court, Madhubani for grant of anticipatory bail in which the informant had also appeared and opposed the prayer for bail of Opposite Party Nos. 2 and 3. In the anticipatory bail petition, the accused-opposite party nos. 2 and 3 had given wrong parentage and residence. The Opposite parties in their petition had given their father's name as Jagdish Thakur r/o Village Parsauni, P.S. Bheja, District Madhubani, whereas in the complaint petition the informant has given father's name of accused-opposite party nos. 2 and 3 as



Late. Jugeshwar Thakur, r/o Village Daldal, P.S. Bheja, District Madhubani. The petitioner has further stated that the opposite party nos. 2 and 3 are next door neighbours and as such he is well aware of their parentage and residence. The informant-petitioner has further stated that in order to conceal there identity and mislead the court below, they have wrongly stated their father's name as well as place of residence. The anticipatory bail petition was taken up by the court below and the informant-petitioner appeared in the court and made a statement that the petitioners of anticipatory bail petition are not the accused persons against whom he has lodged the FIR. There was no occasion for the Opposite Party Nos. 2 and 3 to apply for grant of anticipatory bail in the court below if they were not accused in Bheja P.S. Case No. 5 of 2012. In stead of getting the father's name and residence of Opposite Party Nos. 2 and 3 corrected the petitioner (informant) stated in court that anticipatory bail petitioners are not the persons against whom he has filed F.I.R., the court below had no option but to order the anticipatory bail petition to be not maintainable on the basis of the statement made by the informant-petitioner in the court below. It is very surprising why such statement was made by the informant-petitioner in the case where grant of anticipatory bail was taken by the court below which lead to passing of order by the court below. The whole confusion has been created by the petitioner-informant. However, after the said order was passed a petition was filed by the informant for dismissing the Anticipatory



Bail Petition No. 287 of 2012 and to recall the earlier order passed by the court below, but the court below rightly refused to pass any order on the petition of informant as there is no power to review or recall any order passed by the court below in Anticipatory Bail Petition, and as such the said petition was dismissed. Although the petitioner-informant is responsible and has created confusion in the court below by making such statement in the court below and at subsequent stage of the proceeding filed a petition to dismiss the anticipatory bail petition. Notices were issued to opposite party nos. 2 and 3 by the court on 04.12.2013 and in this the father's name of the opposite party nos. 2 and 3 has been given as late. Jugeshwar Thakur and resident of village Daldal and upon receipt of notice they have appeared in this case but have not disputed their parentage or resident village as given in this petition as such it can be inferred that father's name and resident village as given in that A.B.P. No. 287 of 2012 filed in the court was incorrect may be on account of typographical error. No counter-affidavit has been filed by the opposite party nos. 2 and 3. However in the facts and circumstances of the present case, the order dated 10.05.2012 and the subsequent order passed on the same date i.e 10.05.2012 by the Sessions Judge, Madhubani is set aside and the matter is remanded to the learned Sessions Judge, Madhubani, to pass afresh order in A.B.P No. 287 of 2012 on its own merit after getting the father's name and residence corrected. During pendency of the anticipatory bail petition before



the court below no coercive steps be taken against the Opposite Party  
Nos. 2 and 3 till final order is passed.

Subject to the aforementioned observation and  
direction, this application is disposed of.

**(S. Kumar, J)**

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