

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12495 of 2015

Arising Out of PS.Case No. -86 Year- 2014 Thana -ARA HARIJAN District- BHOJPUR

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1. Pius Michael S.J. @ Prashant S.J. S/o Late Michael Peter Resident of Fathers Residence Catholic School, Ara, P.S. Nawada Ara, District Bhojpur.
 2. Francis Mattathilani S/o Late Devasia Mattathilani Resident of Catholic Church Shahpur, P.S. Shahpur, District Bhojpur.
 3. Dharmendra Singh S/o Rajendra Singh Resident of Sankat Mochan Nagar, Ara, P.S. Ara Nawada, District Bhojpur.
 4. Rajendra Singh S/o Late Sukhdev Singh Resident of Sankat Mochan Nagar, Ara, P.S. Ara Nawada, District Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Dilip Paswan S/o Late Lalmuni Paswan Resident of Maharana Pratap Nagar Pakari, P.S. Ara Nawada, District Bhojpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. K.M.Joseph

For the Opposite Party/s : Mr. Ambika Bhagat(Spl.App)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

5 19-03-2018 Heard learned counsel for the petitioners and learned
counsel for O.P. No. 2.

This petition has been filed for quashing the F.I.R.
dated 11.12.2014 filed in Bhojpur Sadar SC/ST P.S. Case No. 86
of 2014 under Sections 341, 323, 379, 467, 468, 420, 504, 506/34
of the IPC and Section 3(i) (v) (viii) (X) of Scheduled Castes and
Scheduled Tribes Prevention of Atrocities Act.

Counsel for the petitioners has submitted that Sub-
Divisional Magistrate, Sadar Ara inquired into the case and on the



basis of evidence on record, by order dated 25.09.2014 passed in Case No. 251 of 2014 was pleased to hold that Shahabad Parish Society is in rightful possession of the disputed land bearing Khata No. 554, Plot No. 1280 by virtue of their purchase and subsequent mutation and confirmed their possession and the second party was restrained from interfering with the possession of the first party. The Court also held that the rent receipts produced by the second party are not genuine. Copy of order dated 25.09.2014 is enclosed as Annexure-3 to the petition. Subsequent to the order dated 25.09.2014 passed by the Sub-Divisional Magistrate, Sadar Ara in Case No. 251 of 2014 above said upholding possession of the petitioner over the disputed property, the Shahabad Parish Society resumed the work of construction of its compound wall with the help of workers engaged for the purpose. The informant of this case ignoring the order passed by the Sub-Divisional Magistrate initiated a proceeding under Section 144 Cr.P.C. upholding possession of the Society over disputed survey plot no. 1280 and restraining the petitioner from entering into the disputed property on 06.11.2014 for which petitioner no. 1 on 08.11.2014 filed an FIR before the Officer-in-Charge, Ara being Nawada P.S. Case No. 536 of 2014 under Sections 420, 468, 471, 341, 323, 506/34 of the Indian Penal Code against the informant Dilip Paswan and



others. The informant was prime accused in Nawada P.S. Case No. 536 of 2014 and as a counter case he filed a complaint before Chief Judicial Magistrate, Bhojpur being Complaint Case No. 256(c) of 2014 which was sent to police under Section 156(3) Cr.P.C. for investigation, and the present Bhojpur Sadar SC/ST P.S. Case No. 86 of 2014 has been registered.

Learned counsel for the petitioners has submitted that for the same piece of land, the complainant has already filed Title Suit No. 1056 of 2014 in the Court of Sub Judge, Ara for declaration of his title over the disputed property bearing Khata No. 554 Plot No. 1279 and plot no. 1280, which is pending before the court below.

Learned counsel for opposite party no. 2 has appeared and submitted that petitioner have committed overt act as alleged in the FIR. Thereafter, the instant case was lodged by the informant.

A report with regard to current stage of the case was called for from the court below which has been received. Court below has stated in the report that police has completed investigation and has found the case false. The court below has mentioned in the report that notice has been issued to the informant and final Form shall be considered on its merit.



The complainant has filed this complaint with an allegation that land appertaining to Khata No. 554, Plot No. 1279 and Khesra No. 1280 of area 10 decimals in Mauja Pakri Mohalla Maharaja Pratap Nagar Ara is the Khatiani land over which the complainant is coming in possession, from the time of their ancestors. The accused no. 1 and 5 are claiming the land on the basis of false paper and by making false rent receipts in connivance with employees of the Circle Office. The accused no. 1 and 2 want to grab the property. They got proceedings under Sections 144 Cr.P.C. initiated. The complainant has filed criminal revision no. 200 of 2014 against the order passed in proceeding under Section 144 Cr.P.C..

It is admitted position that Title Suit No. 1056 of 2014 has also been filed by the complainant in the Court of Sub Judge, Ara for declaration of his title over the suit property bearing khata No. 554 Plot No. 1279 and plot no. 1280 as mentioned in the complaint petition. The S.D.O. has considered the report, received in a proceeding under Section 144 Cr.P.C. which is Annexure-3, whereby, he was pleased to hold that the petitioners are in rightful possession of the disputed land. The Court has also held that the rent receipts produced by the 2nd party are not genuine.



As per status report sent by the court below the police has completed investigation and found the case untrue. This Court on the basis of allegation in the complaint and also the fact that title suit is already pending between the parties, is of the view that the instant complaint has been filed merely to take vengeance and harass the petitioners on account of civil dispute between the parties.

Therefore, the entire criminal proceeding pending against the petitioner is hereby quashed. This Order, however, will not in any way prejudice, influence or affect the rights of the parties, which are agitated in the title suit, pending between the parties.

(Sanjay Priya, J)

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