

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.3033 of 2015

Arising Out of PS.Case No. -89 Year- 2013 Thana -BISHWAMBHARPUR District- GOPALGANJ

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Awadhlal Prasad, Son of Sri Badhu Prasad, resident of village - Khem Matihania,
P.S. Vishambharpur, District - Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar
2. Nitish Kumar, son of Gyan Chandra Prasad, resident of village - Khem Matihania, P.S. Vishambharpur, District - Gopalganj

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Naresh Prasad, Advocate.

For the Opposite Party/s : Mr. Mushtaque Alam, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 17-01-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing of the First Information Report of Bishambharpur P.S. Case No. 89 of 2013 instituted for the offences under Sections 341, 323, 307, 379 and 504/34 of the Indian Penal Code.

2. Heard learned counsel for the petitioner and learned counsel for the State.

3. Learned counsel for the petitioner has submitted that this is a malicious prosecution. A civil suit is pending between the parties. Prior to the present case, the petitioner has lodged First Information Report vide Bishambharpur P.S. Case No. 08 of 2009



under Sections 341, 323, 324, 379 and 504/34 of the Indian Penal Code against Gyanchand Prasad and his family members.

4. Prior to filing of this case, father of petitioner who is also accused in the present case has filed Partition Suit bearing Partition Suit No. 226 of 2011 in which father of petitioner is defendant No. 1 and others are brothers and sisters of the father of informant.

5. Learned counsel for the petitioner has submitted that during investigation, charge sheet has already been submitted by the police.

6. In such circumstances, since the charge sheet has already been submitted in the case, prayer made by the petitioner for quashing the First Information Report has become infructuous.

7. Therefore, this Criminal Miscellaneous application is disposed off with liberty to the petitioner to raise all the points as raised in this petition at the time of framing of charge in the court below which will be considered by the court below in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	23/01/2018
Transmission Date	23/ 01/2018

