

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.568 of 2016

Arising Out of PS.Case No. -2669 Year- 2012 Thana -WEST CHAMPARAN COMPLAINT
District- WESTCHAMPARAN(BETTIAH)

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1. Ramdhari Yadav @ Ramdhari Prasad Yadav, Son of Late Nawal Yadav,
2. Ramashankar Yadav, Son of Late Nawal Yadav,
3. Shailendra Yadav, Son of Sri Ramadhari Yadav
4. Satyendra Yadav, Son of Sri Ramdhari Yadav, null
5. Jitendra Yadav, Son of Sri Ramashankar Yadav, All residents of village - Sherpur Bairiya Tola, P.S. - Matiyaria, District - West Champaran.
6. Bikau Yadav, Son of Late Somari Yadav,
7. Bhulan Yadav, Son of Sri Jainarayan Yadav,
8. Nathuni Yadav, Son of Late Rameshwar Yadav,
9. Uday Yadav, Son of Late Brichha Yadav,
10. Nand Yadav, Son of Late Brichha Yadav,
11. Prabhua Yadav, Son of Late Brichha Yadav, O.P. Nos. 6 to 11 resident of village - Rampur, P.S. - Shikarpur, District - West Champaran.
12. Hasim Mian, Son of Sharif Mian,
13. Anwarul Mian, Son of Ashique Mian, O.P. Nos. 12 and 13 residents of village - Dadraul, P.S. - Matiyaria, District - West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Balchand Yadav, Son of Late Khobari Yadav, Resident of Village - Sherpur Bairiya Tola, P.S. - Matiyaria, District - West Champaran .

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma-Advocate
For the State : Mr. Anil Kr. Singh-A.P.P.
For the O.P. No.2 : Dr. Chandra Shekhar Azad-Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

04 22-11-2018

Heard learned counsel for the petitioners as well as learned

Additional Public Prosecutor along with learned O.P. No.2.

Petitioners are the accused, who have been summoned to face trial in accordance with Section 204 of the Cr.P.C. vide order dated 09.10.2015 for an offence punishable under Section 341, 379/ 34 of the I.P.C. relating to Complaint Case No.2669-C of 2012, pending before Sri R. K. Rai,



Judicial Magistrate, 1st Class, West Champaran at Bettiah.

The learned counsel for the petitioners has submitted that for the aforesaid piece of land, the parties are at loggerheads. Not only this, for grant of permanent injunction Title Suit No.333 of 2012 has been filed by some of the petitioners and in the aforesaid background, the dispute being civil in nature, would not allow the criminal prosecution, more particularly, would not justify the order impugned. That being so, the same is fit to be set aside.

On the other hand, learned Additional Public Prosecutor along with learned counsel appearing on behalf of O.P. No.2 has submitted that for the present purpose only prima facie material has to be seen, which the order impugned did justify, so the order impugned is fit to be confirmed.

Gone through the order impugned. From perusal of the same, it is manifest that learned lower Court had taken into consideration the S.A. of the complainant/ O.P. No.2 along with statement of two witnesses. The institution of the Title Suit for grant of permanent injunction on the basis of the claim whatever been incorporated therein, has to be tested at the stage of the trial and that being so, the order impugned needs no interference.

Accordingly, instant petition is dismissed.

(Aditya Kumar Trivedi, J)

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