

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10178 of 2015

Arising Out of PS. Case No.-4 Year-2014 Thana- BHOJPUR COMPLAINT CASE District-
Bhojpur

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1. Ashok Kumar Gupta Son of Late Mohan Gupta
 2. Manish Kumar Gupta
 3. Ashish Kumar Gupta Both sons of Ashok Kumar Gupta All residents of village Sarai, P.S. Krishnagarh Barhara in the district of Bhojpur

... .. Petitioners

Versus

1. The State Of Bihar
2. Sri Mustaque Ahmad name of the father is not known to the petitioners, the Executive Magistrate- Cum - Sub Divisional Officer, Sadar, Ara in the District of Bhojpur , Ara.
3. Munilal Keshari son of Late Gyani Keshari resident of Village - Sarai, P.S. Krishnagarh Barhara , in the district of Bhojpur

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Akhileshwar Pd. Singh, Sr. Advocate
For the Opposite Party/s : Mr.S.N.Shuklaapp APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 16-12-2019

Heard learned Sr. counsel for the petitioners and
learned APP for the State.

The instant petition, under Section 482 of the Code of Criminal Procedure, 1973, has been filed for quashing the order dated 03.03.2014, passed by learned Chief Judicial Magistrate Bhopur, Ara, in Complaint Case No. 04(C)/14, by which the learned Magistrate has taken cognizance against the petitioners and others for the offence under Section 188 of the Indian Penal Code as also the order dated



16.09.2014 passed by Sessions Judge, Bhojpur, Ara in Cr. Rev. No. 96 of 2014, whereby the Sessions Judge has affirmed the order taking cognizance dated 03. 03. 2014.

It is submitted by the learned Senior counsel appearing on behalf of the petitioners that petitioners are the *bona fide* purchasers of the land in-question. From the allegations made in the complaint, this Court would find that there is specific allegations that prohibitory order dated 17.08.2013 has been violated by the opposite parties on 03.10.2013. The Court, therefore, would only observe that *prima facie* case under Section 188 of the Indian Penal Code, as observed by the Chief Judicial Magistrate, Bhojpur, Ara, in his order dated 03.03.2014, is in accordance with law and does not require any interference.

It is trite law that at the stage of taking of cognizance, the Magistrate is only required to examine whether the allegations make out a *prima facie* case for issuance of summons. The facts and circumstance of the case, merely on the basis of submissions that the petitioners are the *bona fide* purchasers of land in-question does not require any consideration at this stage, and are, at best, the defence of



the petitioners to be considered at the appropriate stage in
the proceedings in the Court below.

The application stands dismissed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	
CAV DATE	
Uploading Date	18.12.2019
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