

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14991 of 2015

Arising Out of PS. Case No.-91 Year-2013 Thana- SAHPUR District-
Patna

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1. Lala Rai @ Ram Narayan Singh
2. Raj Narayan Rai
3. Devendra Kumar @ Devendra Rai
4. Chandeshwar Rai @ Chandeshwar Prasad
All Sons of Late Bipat Rai
5. Bulbul Rai @ Vijay Prakash
6. Guddu Kumar @ Guddu Rai
7. Chuddu @ Ananjay Prakash Sons of Sri Raj Narayan Rai
8. Pankaj Kumar @ Pankaj Rai Son of Sri Rajendra Rai
9. Suddi Rai @ Raj Kumar, Son of Sri Chandeshwar Prasad
All are residents of Village and Post Office - Chandmari, Police Station -
Shahpur, District - Patna.

... .. Petitioners

Versus

1. The State Of Bihar
2. Narendra Rai @ Subhash Rai, Son of Late Ram Prasad Rai, Resident of
Village and Post Office-Chandmari, Police Station - Shahpur, District
Patna.

... .. Opposite Parties

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Appearance :

For the Petitioners : Mr. Upendra Kumar Singh, Advocate

For the State : Mr. Brajendra Nath Panday, APP

For OPP. Party No. 2: Mr. Bikram Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 22-11-2019

Heard Mr. Upendra Kumar Singh, learned
Advocate for the petitioners, Mr. Bikram Singh, learned
Advocate for the opposite party no. 2 and Mr. Brajendra
Nath Pandey, learned APP for the State.



At the very outset, Mr. Upendra Kumar Singh, learned Advocate for the petitioners submits that the petitioner no. 4 has died during the pendency of this application. He therefore be permitted to delete the name of petitioner no. 4 from the array of the parties. The prayer is allowed. The name of petitioner no. 4 is deleted from the array of parties.

The petitioners have sought quashing of the order dated 12.12.2014 passed by the learned Judicial Magistrate, 1st Class, Danapur in connection with Shahpur P.S. Case No. 91 of 2013 whereby cognizance has been taken for the offences under Sections 448 , 380 , 504, 506 and 149 of the Indian Penal Code.

It has been alleged in the FIR that the petitioners entered the house of the informant and ransacked the belongings and also took away some money which was kept in the house.

Learned counsel for the petitioners has submitted that absolutely a false case has been lodged only because there is some dispute over the possession of a passage in



the lane in between the houses of the petitioners and the opposite party no. 2. It has been submitted that the petitioners and opposite party no.2 come from a common stock of family and there was an arrangement between the parties for giving the passage over the land, which is in dispute, to the petitioners. This perhaps has aggrieved the opposite party no. 2, who has chosen to lodge the present case. Apart from this, other ground also has been raised in the petition for disputing the correctness of the averments made in the FIR.

What appears from the allegations levelled in the FIR as well as from the records of the case is that there is a dispute over the possession of land. Whether the passage/lane in question has gone in the share of the petitioners or the opposite party no. 2 is not an issue to be decided in the present petition but the nature of accusation in this background of facts clearly demonstrates that a civil litigation and the family dispute has been given a colour of criminal case, perhaps in the belief that this prosecution would be a panacea for all the disputes between the parties.



Such an attempt of the opposite party no. 2, which is in the nature of a misadventure, cannot be allowed to be continued any further.

Regard being had to the facts that the petitioners and the opposite party no. 2 come from common stock of the family; existence of a dispute with respect to the possession of passage of land over which the petitioners have constructed a tank, and on the day of occurrence wanted to have the pipeline connected which was opposed by the opposite party no. 2 and the allegation being trivial nature, this Court in exercise of power under Section 482 of the Code of Criminal Procedure, for securing the ends of justice, deems it appropriate and sets aside the impugned order dated 12.12.2014.

The application stands allowed.

BT/-

(Ashutosh Kumar, J)

AFR/NAFR	NAFR
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