

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.241 of 2018

Arising Out of PS. Case No.-151 Year-2013 Thana- GOPALPUR District- Gopalganj

1. Dudh Nath Singh, Son of- Late Vekha Singh,
 2. Hariom Singh, Son of Dudh Nath Singh,
 3. Ramesh Singh, Son of Late Yadunandan Singh,
- All resident of Village- Sonikpur, P.S.- Gopalpur, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Bharat Mishra, son of Late Saryug Mishra, resident of Village- Chauhan Patti, P.S.- Gopalpur, District- Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vitesh Kumar Singh, Adv.
For the Opposite Party/s : Mr. Khurshid Anwar, APP
Mr. Viveka Nand Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

5 19-11-2019 Heard learned counsel for the parties.

The petitioners seek quashing of the order dated 06.05.2014 passed by the learned Additional Chief Judicial Magistrate-VI, Gopalganj in connection with Sessions Trial No. 1461 of 2017 arising out of Gopalpur P.S. Case No. 151 of 2013, whereby cognizance has been taken under Sections



341 and 379/34 of the Indian Penal Code.

It is alleged in the F.I.R. that on 07.12.2013, the petitioners along with others had reaped the standing crops in the field belonging to the informant/opposite party No. 2 and were stealthily taking away the cut crops. When they were prevented from doing so, the informant/opposite party No. 2 was threatened on point of dagger. With the timely arrival of villagers, the informant/opposite party No. 2 could be saved.

Learned counsel for the petitioners submits that an absolutely false case has been lodged against the petitioners. There is a dispute over a plot of land over which the informant has also put his rival claim. The land in question is stated to have been purchased by the petitioners on a valid considerations some times in the year 2013.

The counter version of the informant is that the land is in his possession since 1943.

Assuming but not admitting the aforesaid contentions raised on behalf of the parties, it is a case of civil dispute where the title and possession of the land is in



dispute. Merely because of such dispute, it appears that an attempt has been made to implicate the petitioners in a criminal case. It is precisely for this reason that on investigation, the police found the accusation to be false. Nonetheless, differing with the police report, cognizance has been taken.

On going through the records of the case, this Court finds that the criminal prosecution has been lodged only for the purposes of settling the civil dispute in respect of title and possession of the same land.

This ought not to be permitted.

Hence, this Court exercises its power under Section 482 of the Code of Criminal Procedure and sets aside the order of cognizance and the entire criminal prosecution arising therefrom.

The petition stands allowed.

(Ashutosh Kumar, J)

Praveen-II/-

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