

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3555 of 2018

Arising Out of PS. Case No.-157 Year-2011 Thana- BAHADURPUR District- Darbhanga

Gautam Singh Paswan son of Sri Mahendra Paswan, resident of Village-
Premgivar, P.S.- Bahadurpur, District- Darbhanga.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Anis Haider @ Anees Haider @ Md. Anis Haider, son of Late Munshi Abdul Hassan, resident of Village- Baquipur, P.O.- Laheriasarai, P.S.- Bahadurpur, District- Darbhanga.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Manish Kumar No 13, Advocate Mr. Rohit Kumar, Advocate
For the Opposite Party/s	:	Mr. Sanjay Kumar

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 19-11-2019 Heard the learned counsel for the petitioner and

the State.

The petitioner, who is the informant of Bahadurpur

P. S. Case No. 157 of 2011, has challenged the order dated

20.11.2017 passed by the learned District and Sessions

Judge, Darbhanga, in connection with Criminal Revision No.

179 of 2017, whereby the Opposite Party No. 2 / the

accused has been discharged of the offence under Section

431 of the Indian Penal Code.

It appears that the petitioner had filed a case under

Section 431 against the Opposite Party No. 2 for having



usurped the land over which a canal was made sometimes in the past.

The police after investigation submitted charge-sheet whereupon cognizance was taken. The Opposite Party No. 2 sought his discharge by preferring a petition under Section 239 of the Code of Criminal Procedure, which was rejected. Thereafter, the Opposite Party No. 2 preferred a revision petition in which the impugned order has been passed.

From the perusal of the records, it appears that the details of the land which is said to have been encroached / usurped by the Opposite Party No. 2 has not been stated in the F.I.R. The revisional Court found that the allegation could not be substantiated and the order of cognizance as also the refusal to discharge by the court below was also absolutely cryptic and did not take into account the pointed defence of Opposite Party No. 2.

Apart from this, what weighed with the revisional Court was that with respect to encroachment, there is a separate provision under the Bihar Public Land



Encroachment Act, 1956 and therefore the entire prosecution against the Opposite Party No. 2 was found to be vitiated and infested with *mala fides*. As such, while exercising revisional powers, the court below discharged the Opposite Party No. 2.

This Court does not find any infirmity with the aforesaid order.

The present petition thus is dismissed.

(Ashutosh Kumar, J)

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