

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24451 of 2017

Arising Out of PS. Case No.-72 Year-2015 Thana- GUTHANI District- Siwan

-
1. Hari Kishun Sahni, Son of Late Deo Nath Sahni.
 2. Rohit Sahni, Son of Hari Kishun Sahni.
 3. Krishna Mohan Nath Tiwari, Son of Late Markandey Nath Tiwari.
 4. Dharendra Sahni @ Dharendra Sah, Son of Hari Kishun Sahni, All are Resident of Village- Chitakhal, Police Station- Guthani, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Brij Kishore Nath Tiwari, Son of Late Suryabhan Nath Tiwari, Resident of Village and P.O.- Chitakhal, Police Station- Guthani, At present of Village- Selaure, Police Station- Guthani, District- Siwan.

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Akhileshwar Kumar Shrivastva, Advocate.
For the Opposite Party/s :	Mr. Rabindra Kumar, A.P.P.
For the O.P. No.2 :	Mr. Ramadhar Shekher, Advocate.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

Date : 04-10-2023

Heard learned counsel for the petitioners;
learned A.P.P. for the State along with learned counsel for
the Opposite Party No.2.

2. Learned counsel for the petitioners submits
that the present quashing application has been filed seeking
quashing of order dated 16.02.2017 passed by the learned
Chief Judicial Magistrate, Siwan in Guthani P.S. Case No.
72 of 2015, whereby cognizance of offences under Sections



379 and 34 of the Indian Penal Code has been taken.

3. Learned counsel next submits that initially an F.I.R. was instituted by the Opposite Party No.2 alleging that he had planted wheat crops in village-Odikhor, district-Siwan and the petitioners on 11.04.2015 at 7 P.M. came and harvested the said wheat crops by committing theft. The learned counsel next submits that from bare perusal of the allegation as alleged in the F.I.R., it would manifest that the dispute was purely civil in nature to which a criminal colour has been given. It is next submitted that petitioners are disputing the title of the O.P. No.2 over the land in question, it is next submitted that even police after investigation submitted final form in favour of the petitioners and recommended proceedings under Sections 182 and 211 of the Indian Penal Code against the informant, but the learned Trial Court, differing with the police report, took cognizance. It is next submitted that the land in question belongs to one Kashi Nath Tiwari and the said Kashi Nath Tiwari through registered sale deed had sold the land in favour of petitioner no.1 on 16.01.2001 and thereafter the petitioner no.1 along with his family members came in



possession over the land even the land was mutated in favour of petitioner no.1 and *Jamabandi* No.276 was created and thereafter rent receipts were issued as would be evident from the 'Annexure-3 series' to the quashing application.

4. Learned counsel for the petitioners submits that if the Opposite Party No.2 had any grievance, he ought to have moved before a Court of competent civil jurisdiction instead of instituting a criminal case with a view to coerce the petitioners into submission to part with the land. The learned counsel further submits that till date the stage of the case from the stage of cognizance has not changed.

5. The learned counsel for the Opposite Party No.2 submits that despite his best endeavour he could not seek any instruction from the Opposite Party No.2, as such, is not aware of the present status of the case.

6. Mr. Rabindra Kumar, learned A.P.P. for the State opposes the quashing application.

7. Since, it has been submitted by the learned counsel for the petitioners that the stage of the case from the



stage of cognizance till date has not changed, as such, there is no reason for this Court to disbelieve the said submissions of the learned counsel for the petitioners.

8. After hearing the learned counsel for the petitioners, the Court comes to a considered conclusion that the dispute was purely civil in nature to which a criminal colour was given.

9. Considering the submissions, the order dated 16.02.2017 passed by the learned Chief Judicial Magistrate, Siwan in Guthani P.S. Case No. 72 of 2015, whereby cognizance of offences under Sections 379 and 34 of the Indian Penal Code has been taken, is hereby quashed.

10. The quashing application is thus allowed.

(Satyavrat Verma, J)

Nilmani/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	06.10.2023
Transmission Date	N.A.

