

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30169 of 2015

Arising Out of PS. Case No.-177 Year-2015 Thana- VAISALI COMPLAINT CASE District-
Vaishali

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Shambhu Nath Singh S/o Late Siya Ram Singh Resident of Village Balataur,
P.S. Bidupur, District Vaishali.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Mithilesh Singh S/o Deo Narayan Singh Resident of Village Balataur, P.S.
Bidupur, District Vaishali.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nachiketa Jha
For the Opposite Party/s : Mrs. Madhuri Lata APP

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 17-02-2023 Heard the parties.

This application has been filed on behalf of the petitioner for quashing the order dated 25.03.2015 in Tr. No. 228 of 2015 arising out of C1-177 of 2015 passed by learned Judicial Magistrate, 1st Class, Hazipur at Vaishali by which the cognizance has been taken under Section 147, 427, 323 and 504 read with Section 34 of the Indian Penal Code against the petitioner and others.

Learned counsel for the petitioner submits that this is a malicious prosecution which has been filed because of the pending land dispute between the parties and for the same he had relied upon Annexure III series, which is a photocopy of the proceedings under Section 144 of the Cr.P.C.



Ms. Shivani Kumari, learned counsel for the Opposite Party has appeared and opposed the application. She submits that *prima facie* case is made-out against the petitioner and therefore this is not a fit case for quashing.

When the prosecution is malicious, the argument of *prima facie* law will not help the complainant.

Considering the above submissions, this application is allowed.

Accordingly, the order dated order dated 25.03.2015 in Tr. No. 228 of 2015 arising out of C1-177 of 2015 passed by learned Judicial Magistrate, 1st Class, Hazipur at Vaishali, is hereby quashed.

(Sandeep Kumar, J)

Vikas/Shishir

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