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Mojamil Haque Vs. State of Jharkhand

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Court : Jharkhand

Decided On : Aug-21-2013

Appellant : Mojamil Haque

Respondent : State of Jharkhand

Judgement :

IN THE HIGH COURT OF JHARKHAND, RANCHI Cr. M. P. No. 1839 o

1. Mojamil Haque 2. Mustaque Ahmad 3. Indadul Islam @ Imdadul Islam ..... Petitioner(s) Versus 1.The State of Jharkhand 2. Ansar Sk. . Opp. Party(s) CORAM: HONBLE MR. JUSTICE R. R. PRASAD For the Petitioner(s) : Mr. Gautam Kumar, Advocate. For the State : A.P.P. For the O. P. No.2 : Mr. Atanu Banerjee, Advocate ----- 04 /21.08.2013. Heard learned counsel appearing for the petitioners and learned counsel appearing for the opposite parties. The order dated 05.05.2011 passed in P.C.R. Case No.321 of 2011 by learned Judicial Magistrate, 1st Class, Rajmahal, whereby and whereunder cognizance of the offence punishable under Sections 323, 379, 504, 341, 427, 34 of the Indian Penal Code has been taken against the petitioners, is being sought to be quashed on the ground that the complainant has maliciously brought the case against the petitioner. Mr. Gautam Kumar, learned counsel appearing for the petitioners submits that the complainant has been claiming to be in possession over 12 katha and 10 dhur of land, which was claimed to have been purchased in the year 1988 and from which land, according to the complainant, crop was cut by the petitioners and thereby, a case was lodged, but the complainant had never been in

possession of entire land. Before the case was lodged, measurement of land was taken at the instance of the complainant whereby it could be found that ownership of the complainant is only with respect to 7 kathas of the land and not the entire land which was claimed in the complaint petition and thereby, whatever allegations which have been made in the complaint petition those allegation seem to be mala-fide. Accepting the arguments what have been advanced on behalf of the petitioners to be true, no case of quashing of the order taking cognizance is made out. Accepting the argument the fact remains that the complainant was in possession over the 7 kathas of the land and as per the allegation, crop has also been cut from that part of the land. In that event, I do not find any illegality with the order taking cognizance and hence, the order taking cognizance never warrants to be quashed. In the result, this petition stands dismissed. Notwithstanding the fact, the petition got dismissed, any finding recorded for the purpose of disposal of this case, may not be prejudicial to the case of the parties. (R. R. Prasad, J.) Sandeep/

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