

Yogendra Sharma and ors. Vs. the State of Bihar

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Court : Patna

Decided On : May-25-2012

Appellant : Yogendra Sharma and ors.

Respondent : The State of Bihar

Judgement :

Patna High Court Cr.Misc. No.199 of 2011 (2) dt.25-01-2012 IN THE HIGH COURT OF JUDICATURE AT PATNA Criminal Miscellaneous No.199 of 2011

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1.Yogendra Sharma , son of late Parsan Sharma 2. Nagendra Sharma, son of late Parsan Sharma 3. Vijay Kumar Sharma, son of Nagendra Sharma 4. Sanjay Kumar Sharma, son of Nagendra Sharma 5. Dhananjay Kumar Sharma, son of nagendra Sahrma, all are residents of Village- Dhaka Road, Mathia, P.S. Chhatauni, District-East Champaran.

6. Prem Sharan Sharma, son of late Kewal Sharma, resident of Village- Suthash Nagar, Chhatauni Mathia, District- East Champaran Petitioner/s Versus The State Of Bihar Opposite Party/s

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Appearance : For the Petitioner/s : Mr. Vijay Shankar Shrivastava, Advocate. For the Opposite Party/s : Mr. Yogendra Kumar, A.P.P.

===== CORAM:

HONOURABLE MR. JUSTICE SHIVAJI PANDEY ORAL ORDER (Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

25. 01-2012 Heard learned counsel for the petitioners and learned counsel for the State. This application has been filed for quashing the order dated 31.8.2006 passed by the Chief Judicial Magistrate, Motihari, East Champaran in Town P.S. Case No.162 of 2004 by which the learned Magistrate has taken cognizance against the petitioners under sections 467, 468 and 420/34 of the Indian Penal Code. According to the First Information Report the petitioners have gone to the place of occurrence Patna High Court Cr.Misc. No.199 of 2011 (2) dt.25-01-2012 armed with deadly weapons and started ploughing the field whereupon the informant has told for not doing the same thereafter they hurled abuses and also assaulted him. One Binod Sharma has also used fire arms which led to filing of the present case. Learned counsel for the petitioners submits that it is completely a civil suit and has relied on the following reported judgments of the Honble Supreme Court: (i) Mhammed Ibrahim and others V. State of Bihar and another, reported in (2009) 8 SCC 751.(ii) Y. V. Jose and another Vs. State of Gujarat and another, reported in 2009(2) PLJR (SC) 1. The Honble Supreme Court has held that if primarily it is a civil dispute then continuation of prosecution can not be allowed. In the present case primarily it is not a civil dispute but this incident has taken place because there was dispute in between the parties relating to land. So it is out and out a criminal act and this case is not covered by the aforesaid judgments. This application is dismissed with a liberty to Patna High Court Cr.Misc. No.199 of 2011 (2) dt.25-01-2012 the petitioners to raise all the points before the trial court at the appropriate stage. (Shivaji Pandey, J.) Vinay/-