

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21007 of 2012

=====

1. Chandra Kishore Jha son of late Ugeshwar Jha.
2. Anil Kumar Jha son of Chandra Kishore Jha.
Both resident of village Korhu P.S. Ghanshyampur District Darbhanga
..... Petitioner/s

Versus

1. The State of Bihar
2. Bishwambhar Mishra son of late Madan Mishra Resident of village
Korthu P.S. Ghanshyampur District Darbhanga
..... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Satish Chandra Jha, Adv.

For the Opposite Party/s : Mr. M.Haqui, App

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL ORDER

4 20-02-2015

The petitioners seek quashing of the proceeding including the order of cognizance dated 17.04.2012 passed by the Judicial Magistrate 1st Class, Biraul at Benipur in Miscellaneous Case No. 05 of 2012, Cr. Rev. No. 29 of 2012.

The case of the complainant is that he was a fourth grade employee in Janta Intermediate College, Korthu whereas the petitioners were Secretary and Mukhiya of the Gram Panchayat respectively. He had opposed the petitioner no. 2 to the post of Mukhiya on account of which when grant of Rs. 5 lacs was received by the college they did not pay "Subidha Sulk" to him and when he went to the petitioners' house for an explanation they wrapped a Gamchha around his neck and snatched his gold ring.

It has been submitted on behalf of the petitioners that the fact of the matter is that Petitioner no. 1 is the Secretary of the

College whereas the Petitioner no. 2 is the Mukhiya. The College had received a sum of Rs. 5, 80,000/- for payment of the staff which came under 'Manak Pad' i.e. the post created and sanctioned. However, since the complainant did not qualify he was refused such grant and being aggrieved, he instituted the complaint case in which cognizance has been taken.

The allegation of wrapping the Gamchha around his neck and snatching a gold ring is a typical allegation only with a view to create a criminal offence.

On the other hand, complainant submits that since the petitioners have committed the aforesaid offence they should be put on trial.

Having gone through the facts of the complaint, I am inclined to agree with the counsel for the petitioners that the complainant was appointed with regard to non-payment, which was not a criminal offence and hence he added the frivolous allegations to make them liable in a criminal Court. Hence the application is allowed. The order of cognizance dated 17.04.2012 passed by the Judicial Magistrate 1st Class, Biraul at Benipur in Miscellaneous Case No. 05 of 2012 Cr. Rev. No. 29 of 2012 is hereby set aside.

(Anjana Prakash, J)

Prakash/-

U		T	
---	--	---	--