

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15518 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- PATNA

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1. Suresh Prasad S/O Ramashish Prasad
 2. Lila Devi W/O Suresh Prasad
 3. Rohit Kumar S/O Suresh Prasad
 4. Abhishek Kumar S/O Suresh Prasad, all Resident Of Mohalla- E.S.I. Colony, Saket Bihar, P.S.- Rajev Nagar, District- Patna.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Umesh Prasad S/O Ram Ashish Prasad of E.S.I. Colony, Saket Bihar, D.V.C. College, P.S.- Rajev Nagar, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vinay Kumar, Advocate
For the State : Mr. Shailendra Kr. Singh, APP
For Opposite Party No.2 : Mr. Binod Kr. Singh, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 13-07-2015

The Petitioners seek quashing of the order of cognizance dated 1.2.2010 passed by the court of Smt. Rachna Raj, Judicial Magistrate, 1st class, Patna in Complaint case No.3043C of 2009.

The case of the Complainant, who happens to be the brother of the Petitioner No.1, is that on the date of occurrence the accused persons came to his house and started to ask him to vacate the house and when he refused he was assaulted by the accused with a dagger, on account of which his finger was cut. The rest of the accused persons assaulted him with bricks and stones causing serious injuries to him. They also committed theft of his personal property.



It has been submitted on behalf of the Petitioners that as is indicated in the Complaint Petition there is land dispute between the brothers. The Petitioner No.1 was working as an Upper Division Clerk in the Bihar Regional Office, Patna and had applied for membership and allotment of land on 9.4.1981 under a certain scheme. He paid two instalments, after which he got possession of a house. In September, 1999 the Complainant came to stay in the house which they allowed but after that the Complainant refused to vacate the premises. He then filed Title Suit No.464 of 2000. It is in this background that the present Complaint was filed in order to sort out the civil dispute.

On the other hand, the Counsel for the Complainant submits that in the nature of relationship the matter had been referred to the Mediation Centre but since the Petitioners were not agreeable to withdraw the Title Suit the matter could not be sorted out. It is also submitted that the witnesses supported the factum of assault and theft and therefore they should be prosecuted.

Having considered the background of the dispute and the nature of relationship between the parties, I would be inclined to hold that the present Complaint is frivolous in nature and deserves to be set aside. Hence, the application is allowed and the order of cognizance dated 1.2.2010 passed by the court of Smt. Rachna Raj, Judicial

Magistrate, 1st class, Patna in Complaint case No.3043C of 2009 is hereby set aside.

However, it is clarified that this Court has not looked into the case of rival claims in regard to the premises in question.

(Anjana Prakash, J)

Narendra/-

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