

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 37719 of 2014

Arising out of P.S. Case No. -118 Year- 2012 Thana -SAHPUR
District- PATNA

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1. Sanjay Kumar Yadav, Son of Mulla Singh Yadav.
 2. Meena Devi, Wife of Sanjay Kumar Yadav. Both are resident of Village-Kahari Tola, P.S.-Maner, District-Patna.
 3. Dhananjay Kumar, Son of Munna Singh Yadav, Resident of Village-Kujwa, P.S.-Bihta, District-Patna.
 4. Subramanian Swami, Son of Arjun Singh, Resident of Village-Vijaynagar, P.S.-Rupaspur, District-Patna.
 5. Arun Kumar @ Arun Singh, Son of Late Ramdeo Singh, Resident of Village-Gandhinagar Gabhtal, P.S.-Danapur, District-Patna.
- Petitioner/s

Versus

1. The State of Bihar.
 2. Awadhesh Kumar, Son of Chandra Deep Prasad Yadav, Resident of Village+P.O.-Sarai, P.S.-Maner, District-Patna.
- Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nand Kishore Prasad, Adv.
For the Opposite Party/s : Mr. APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 17-09-2015

The Petitioners seek quashing of the order of cognizance dated 28.05.2014 passed by the Judicial Magistrate, 1st Class, Danapur, Patna in Shahpur P.S. Case No. 118 of 2012.

The case of the informant is that on the date of occurrence Ghanshyam Prasad came and asked him for return of the Sale-deed which has been executed in favour of the Complainant's wife. He refused to do so since he had also put up a boundary wall on the said plot. Thereafter the accused persons started to assault him with fists and slaps and Ghanshayan Prasad took away a sum of Rs. 8,000/- from cash-box and Petitioner

No. 1 snatched away golden chain from the neck of the Complainant.

During investigation the factum of theft was found false and, hence, charge-sheet was not submitted under Section 380 IPC. However, now the charges have been framed only under Section 380 IPC which allegation was found false during investigation. In such a situation, it is submitted that the trial will be a nullity when the prosecution would fail to substantiate the allegations.

On the other hand, Counsel for the Informant submits that since criminal offences are made out they should be put on trial.

Having considered that the Sale-deed was not between the Petitioners and the Informant but between Ghanshyam Prasad and the Informant, the proceeding as against the Petitioners including the order of cognizance dated 28.05.2014 passed by the Judicial Magistrate, 1st Class, Danapur, Patna in Shahpur P.S. Case No. 118 of 2012 is, hereby, set aside.

The Application stands allowed.

(Anjana Prakash, J.)

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