

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.44394 of 2011

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

=====

1. Savitri Devi Wife Of Parmatma Mishra
2. Urmila Devi Wife Of Kancha Mishra
3. Savita Devi Wife Of Sunil Mishra
4. Bhagirati Devi Wife Of Mahesh Mishra
5. Yogawali Kuwari D/o Parmatma Mishra
6. Nitu Kumari D/O Parmatma Mishra
7. Kalpana Kumari D/O Parmatma Mishra
8. Bhawna Kumari D/O Parmatma Mishra
9. Sandhiya Kumari D/O Late Manas Mishra
10. Mandhiya Kumari D/O Late Manas Mishra
11. Nipu Kumari D/O Mahesh Mishra, all Resident Of Village- Banjariya, Police Station- Mohammadpur, District- Gopalganj

.... Petitioner/s

Versus

1. The State Of Bihar
2. Punam Devi Wife Of Anirudh Mishra, Resident Of Village- Banjariya, Police Station- Mohammadpur, District- Gopalganj

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Md. Najmul Hoda, Advocate
For the Opposite Party/s : Mr. Ganesh Pd. Singh, APP

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 06-07-2015

The Petitioners seek quashing of the order of cognizance dated 21.9.2011 passed by the Chief Judicial Magistrate, Gopalganj in Trial No.1044 of 2011 arising out of Complaint case No.3193 of 2010.

The case of the Complainant is that on the date of occurrence while she was at her home, the accused persons came there and started to remove her hut. When she protested, she was variously assaulted. The accused persons also committed theft of her personal

articles.

It has been submitted on behalf of the Petitioners that fact of the matter is that on 30.11.2010 while the Accused No.4 Rajan Mishra was cleaning his house, the Complainant and her husband brutally assaulted him, for which Mohammadpur P.S. case No.111 of 2010 under Section 307 I.P.C. was filed. It was in order to screen herself from the liability of the said prosecution case that the present Complaint was filed on 2.12.2010 i.e. 2 days later.

Notices had been issued to the Opposite Party No.2 but none appears on her behalf.

Having considered the background facts, I would be inclined to hold that the present Complaint is a gross abuse of the process of the Court and deserves to be set aside.

Hence, the application is allowed and the order of cognizance dated 21.9.2011 passed by the Chief Judicial Magistrate, Gopalganj in Trial No.1044 of 2011 arising out of Complaint case No.3193 of 2010 is hereby set aside.

However, this order shall not prejudice any party in any manner.

(Anjana Prakash, J)

Narendra/-

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