

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.13137 of 2010**

Arising Out of Complaint Case No. -2498 Year- 2006 District- EASTCHAMPARAN(MOTIHARI)

=====

1. Sahnaaz Begum, Wife of Sk. Shhraf  
2. Chandni Nesha Wife of Sk. Rushtam  
3. Salamunesha D/O Sk. Nezamuddin  
4. Ruby Khatoon Wife of Sk. Muharram  
5. Sk. Jamir, son of Late Sk. Idu  
All are residents of Village- Shyampur Badua, P.S.- Sangrampur, District East  
Champaran ..... Petitioners

Versus

1. The State of Bihar  
2. Sk. Reyaz, son of Sk. Raffique Resident of Village- Shyampur Badua, P.S.-  
Sangrampur, District East Champaran ..... Opposite Parties

With

**Criminal Miscellaneous No. 27679 of 2011**

Arising Out of Complaint Case No. -2498 Year- 2006 District- EASTCHAMPARAN(MOTIHARI)

=====

1. Sk. Nizamudin, Son of Late Sk. Sabbir  
2. Sk.Muharram, Son of Late Sk.Sabbir  
3. Sk.Rustam, Son of Sk. Jamir  
4. Sk.Sohrab Son of Sk.Jamir  
5. Sk.Manjoor, Son of Sk. Rustam  
6. Sk.Joubad, Son of Sk.Nizamuddin  
7. Sk.Firoz, Son of Sk. Mubarram  
All are residents of Village- Shyampur Badua, P.S.Sangrampur, Distt-East  
Champaran ..... Petitioners

Versus

1. The State of Bihar  
2. Sk.Reyaz, Son of Sk. Raffique, resident of Village-Shayampur Badua,  
P.S.Sangrampur, Distt-East Champaran ..... Opposite Parties

**Appearance :**

**(In Cr.Misc. No. 13137 of 2010)**

For the Petitioner/s : Mr. Umashankar Verma, Advocate  
For the State : Mr. Upendra Kumar, A.P.P.

**(In Cr.Misc. No. 27679 of 2011)**

For the Petitioner/s : Binod Kr. Mishra, Advocate  
For the State : Mr. Upendra Kumar, A.P.P.

**CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH**

**ORAL JUDGMENT**

**Date: 22-09-2015**

No one appears on behalf of opposite party no. 2.



The Petitioners seek quashing of the order dated 13.01.2010, by which the Assistant District and Sessions Judge-cum-F.T.C.-I, Motihari in Cr. Revision No. 291/2007/68/2007 upheld the order of cognizance dated 28.05.2007 passed by the Judicial Magistrate, Motihari in Complaint Case No. 2498 of 2006 (Tr. No. 2833 of 2007).

The case of the complainant is that on the date of occurrence the accused persons came upon his land and started to altercation with him. Thereafter they also assaulted him and took away his personal possessions.

It has been submitted that fact of the matter is that the Petitioner no. 1 of Cr. Misc. No. 13117 of 2010 had filed Complaint Case bearing no. C-2327 of 2006 alleging that while Title Suit No. 248 of 2006 was pending between the parties, on 01.12.2006 the complainant and others came upon her land and assaulted her even though she was pregnant. It appears that in retaliation the present complaint was filed more or less with similar allegations.

Considering the fact about pendency of the Title Suit, I would be inclined to hold that the present prosecution is an exaggeration of the actual occurrence and hence these applications are allowed and the proceedings including the order of dated 13.01.2010 passed by the Assistant District and Sessions Judge-cum-F.T.C.-I,

Motihari in Cr. Revision No. 291/2007/68/2007 and the order of cognizance dated 28.05.2007 passed by the Judicial Magistrate, Motihari in Complaint Case No. 2498 of 2006 (Tr. No. 2833 of 2007) is hereby set aside. Also in the interest of justice, Complaint Case bearing no. C-2327 of 2006 instituted by the Petitioner no. 1 of Cr. Misc. No. 13117 of 2010 pending in the Court of Judicial Magistrate, Motihari is set aside.

**(Anjana Prakash, J)**

Vats/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|