

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7857 of 2009

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

- =====
1. Jay Kumar Giri, son of Sri Lakhan Giri,
 2. Purushottam Giri, son of Sri Awadhesh Giri,
 3. Sanjiv Giri @ Pintu, son of Lalan Giri,
 4. Smt. Urmila Devi, wife of Sri Jay Kumar Giri,
 5. Lakhan Giri, son of late Jageshwar Giri @ Yogendra Giri,
 6. Nirmala Devi, wife of Sri Jain Giri, all resident of village-Atrauli, P.S.- Amba, District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar, &
2. Sanjay Singh, son of Sri Kailash Singh, resident of village-Atrauli, P.S.- Amba, District- Aurangabad.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Akhileshwar Pd. Singh, Sr. Advocate with
Mrs. Anita Kumari Singh, Advocate

For the Opposite Party/s : Mr. Upendra Kumar, APP

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 10-07-2015

1. The Petitioners seek quashing of the order dated 04.12.2008 by which the Additional Sessions Judge, FTC IV, Aurangabad, in Cr. Revision No.113 of 2007/11 of 2008 affirmed the order dated 31.07.2007 passed by the Chief Judicial Magistrate, Aurangabad, in Complaint Case No.1098 of 2006.

2. The case of the Complainant is that he was to get the Diesel Machine of Arbind Singh lying with accused-Petitioner Jai Kumar Giri. When he went to take the same, he asked him for *Rangdari* of ₹500/- and also assaulted him and committed theft of his personal property.

3. Submission of the Petitioners is that Petitioner No.1 had instituted a case against the Complainant on 24.12.2006 as

Amba P.S. Case No.47 of 2006 under Section 307 Indian Penal Code in which charge-sheet was submitted. It is in order to save himself from the prosecution initiated by the Petitioner No.1, present Complaint Petition has been filed with trumped charges on 26.12.2006. Submission is that allegations are not only absurd but also malicious.

4. Notice had been issued to the Opposite Party No.2 but none appears on his behalf.

5. Having gone through the background facts, I would be inclined to agree with the submission raised on behalf of the Petitioners that the present prosecution is nothing but a counter blast to the prosecution initiated by the Petitioner.

6. Hence, the order dated 31.07.2007 passed by the Chief Judicial Magistrate, Aurangabad, in Complaint Case No.1098 of 2006 as also the order dated 04.12.2008 passed by the Additional Sessions Judge, FTC IV, Aurangabad, in Cr. Revision No.113 of 2007/11 of 2008 are hereby set aside.

7. The application stands allowed.

8. However, this order shall not give undue advantage to any party.

(Anjana Prakash, J)

JA/-

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