

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.16370 of 2011

Arising Out of PS.Case No. -177 Year- 2007 Thana -null District-
EASTCHAMPARAN(MOTIHARI)

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1. Kamal Kumar Agrawal son of Pawan Agrawal
 2. Minu Agrawal daughter of late Krishn Murari Agrawal
 3. Raje Agrawal S/o late Krishn Murari Agrawal
 4. Arun Agrawal @ Aarun Kumar Agarwal son of Iswari Prasad
 5. Bicky Agrawal son of Aarun Agrawal
 6. Sajjad Hussain @ Sajjad Miya s/o late Kamarudin Miya
 7. Rishi Agrawal son of late Krishn Murari Agrawal
 8. Shiv Kumar Agrawal s/o Iswari Pd. Agarwal
 9. Madhu Devi Agrawal w/o Kamal Kumar Agarwal
 10. Anuradha Agrawal w/o Arun Kr. Agarwal
 11. Usha Devi Agrawal w/o Shiv Kr. Agarwal, all resident of village Islampur, ward No.7, P.S. Raxaul, District East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Vinod Kumar son of Soohan Rai, resident of Mauza ward No.21, P.S. Raxaul, District East Champaran

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Md. Shahnawaz Ali, Advocate

For the Opposite Party/s : Mr. Amrendra Kr. Sinha, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 10-03-2015

The Petitioners seek quashing of the order dated 18.3.2011 passed by the Judicial Magistrate, 1st class, Raxaul at Motihari in Raxaul P.S. case No.177 of 2007 (Trial No.1296 of 2011), by which he ordered framing of charge under Section 379 I.P.C.

The case of the Informant is that he had opened a Hotel in Raxaul, which was running since last 30 years. When he tried to repair the same, he was not permitted to do so by the Officer Incharge of the local Police Station, who locked the shop. He alleged that the

family members of accused had closed the passes by locking the passage and on request to open it they got infuriated. However, later the Informant broke open the lock upon which the accused persons came and assaulted him.

It has been submitted on behalf of the Petitioners that from the facts of the First Information Report evidently the genesis of the occurrence appears to be a question of title over the said Hotel. The Informant had lost up till Supreme Court in this regard, despite which he is creating disturbance on the premises and has instituted the present First Information Report to assert his claim over the Hotel.

On the other hand, the Counsel for the Informant submits that even though there was a dispute over the Hotel but till the date of occurrence the Title Suit had not been decided. Fact of the matter is that on the date of occurrence the accused persons entered his Hotel and committed theft of his articles and, therefore, they should be prosecuted.

Having gone through the First Information Report and the genesis of the occurrence, I would be inclined to hold that the present prosecution is frivolous and deserves to be set aside.

Hence, the application is allowed and the proceeding including the order dated 18.3.2011 passed by the Judicial Magistrate, 1st class, Raxaul at Motihari in Raxaul P.S. case No.177 of 2007 (Trial

No.1296 of 2011) is hereby set aside.

However, the quashment of the present proceeding shall have no bearing on any other claims.

(Anjana Prakash, J)

Narendra/-

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