

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 27716 of 2012

Arising out of P.S. Case No. -415 Year- 2010 Thana –
Complaint District- KHAGARIA

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1. Birendra Kumar Singh S/o Ram Badan Singh Resident of Village- Dalan Haripura, P.S- Alauli, District- Khagaria.
 2. Ram Narayan Singh S/o Manik Lal Singh Resident of Village- Dalan Haripura, P.S- Alauli, District- Khagaria.
 3. Shiv Shankar Singh S/o Late Chandradeo Singh Resident of Village Chro, Tola Mohra Ghat, P.S- Alauli, District- Khagaria.
 4. Raj Kumari Devi W/o Jawahar Pandit Resident of Village- Jasimpur, P.S And District- Khagaria.
 5. Asha Devi W/o Ram Singh Patel Resident of Village- Dan Nagar, P.S And District- Khagaria.
 6. Chanda Kumari W/o Sunil Kumar Singh Resident of Village- Baluwahi, P.S & District- Khagaria.
 7. Raj Kishore Singh S/o Ramsurat Singh Resident of Village- Mal Godam Road (Western Side of From Bakri Bus Stand), P.S & District- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Gopal Prasad Khetan S/o Late Radhe Shyam Khetan Resident of Village- Vishwanathganj, P.S & District- Khagaria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Tarun Kumar Sinha, Adv.

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

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 31-03-2015

The Petitioners seek quashing of the entire proceeding including the order of cognizance dated 25.04.2012 passed by the Sub-Divisional Judicial Magistrate, Khagaria in Complaint Case No. 415C of 2010 on the ground of malicious prosecution.

The case of the Complainant is that the parties belong to same branch of family and despite a partition

between them the accused persons started to assert their rights over their portion. They also got proceedings initiated before the SDM and started to create forged documents to further compound the dispute. On the date of occurrence they allegedly assaulted him.

It has been submitted that as is evident from the Complaint Petition itself the dispute is purely civil in nature and the rest of the allegations with regard to assault is a mere embellish to coercion the Petitioners into settlement. The Petitioners have filed a Supplementary-Affidavit wherein a compromise petition has been annexed.

Notices had been issued to the Opposite Party No. 2 but he has chosen not to appear before this Court.

Having considered the aforesaid facts, the entire proceeding as against all the accused persons including the order of cognizance dated 25.04.2012 passed by the Sub-Divisional Judicial Magistrate, Khagaria in Complaint Case No. 415C of 2010 is, hereby, set aside.

The Application stands allowed.

(Anjana Prakash, J.)

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