

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45794 of 2012

Arising Out of PS.Case No. -2590 Year- 2010 Thana -null District- WESTCHAMPARAN
(BETTIAH)

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1. Md. Kalim Gaddi, son of late Aliraj Gaddi,
 2. Mustaque Ahmad Gaddi, son of Md. Kalim Gaddi,
 3. Murad Gaddi @ Murad Ahmad Gaddi, son of Md. Kalim Gaddi,
 4. Imdad Gaddi alias Imdad alias Suga Gaddi, son of Md. Kalim Gaddi, all resident of village-Pirari Gutthi, Ward No.6, P.S.-Shidhwa, District- Parsa, Nepal &
 5. Md. Shakil Gaddi alias Shakil Ahmad, son of Md.Alim Gaddi, resident of village- Line Parsa, P.S.-Balthar, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar &
2. Gaisul Ajam Gaddi, son of Md. Idris Gaddi, resident of village-Line Parsa, P.S.- Balthar, District- West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Wasi Ahmad Khan, Advocate
For the Opposite Party/s : Mr. Binay Kant Mani Tripathi, Advocate
APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 07-07-2015

The Petitioners seek quashing of the entire proceeding including the order of cognizance dated 02.07.2012 passed by the Judicial Magistrate, 1st class, Bettiah, in Tr. No.2509 of 2012.

The case of the Complainant is that he had filed a case under petty Act against his brother i.e. Petitioner No.1 which was pending hearing. Further, the accused persons used to always pressurize him to give up his claim and threatened to implicate him in false case. He had also filed Informatory Petition in the Court of S.D.O., Narkatiaganj, as a result of which, the accused persons became angry and snatched ₹10,000/- from his pocket and tried to take the Complainant towards Nepal.

It has been submitted on behalf of the Petitioners that evidently the present Complaint Petition has been instituted by the Complainant on account of dispute over *Bataidari*. The said case was pending before the LRDC which was decided against the Complainant due to which the Petitioners have been implicated in the present case. It is in this background that the Petitioners seek quashing.

On the other hand, counsel for the Complainant submits that even if the Petitioners claim that they were citizens of Nepal, fact of the matter is they are residing in India and acted in a manner as alleged and hence, they should be put on trial.

Having considered the facts as also the relationship between them, I am inclined to allow the application.

Hence, the order of cognizance dated 02.07.2012 passed by the Judicial Magistrate, 1st class, Bettiah, in Tr. No.2509 of 2012, is hereby set aside.

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

The application stands allowed.

(Anjana Prakash, J)

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