

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.31305 of 2008

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

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1. Aditya Kumar Kanth, son of Chandra Narayan Kanth
 2. Sanjeet Kumar Kanth, son of Chandra Narayan Kanth
 3. Manoj Kumar Kanth, son of Chandra Narayan Kanth
 4. Mundkala Devi (wrongly named as Chandra Kala Devi), wife of Chandra Narayan Kanth
 5. Ranjana Devi, wife of Sanjeet Kumar Kanth
- All residents of village Baghant, P.S. Maniganchhi, Distt. Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar
2. Prabhakar Kanth
3. Bibhakar Kanth

Both sons of late Janardhan Kanth, resident of village Baghant, P.S. Maniganchhi, Distt. Darbhanga.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satish Chandra Mitra, Adv.
Mr. Deepak Kumar, Adv.

For the State : Mr. S.R. Haque, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 17-03-2015

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of cognizance dated 4.1.1999 passed by the Judicial Magistrate, 1st class, Darbhanga in C.R. case No.9 of 1998 as also the order of the Additional District & Sessions Judge, F.T.C. V, Darbhanga, by which he has affirmed the said order in Criminal Revision No.314 of 2000 by order dated 22.4.2008.

The case of the Complainant is that on the date of occurrence the accused persons entered into the enclosure of the

Lavatory, where he had gone for relieving himself and assaulted him. They also entered in his courtyard and further assaulted rest of the family members and committed theft of personal property. Thereafter, a Panchayati was held but the accused persons refused to accept the decision of the Panchayat.

It has been submitted on behalf of the Petitioners that fact of the matter is that the Complainant is the step brother of the father of Petitioners No.1, 2 and 3 and there was a property dispute between them. Earlier the Complainant had filed a Complaint in 1996, which was dismissed for non-prosecution. It is only after the Petitioners filed the Title Suit claiming title over the land, the present Complaint was filed. There are a series of litigations by way of proceeding under Section 107/144 Cr.P.C. with regard to the said land. Earlier the Complainant filed, i) Complaint case No. 516 of 1993, which is still pending and also filed ii) Manigachhi P.S. case No.6 of 1998 and his son instituted, iii) C.R. case No.281 of 1993.

The Petitioner No.1 instituted Manigachhi P.S. case Nos.188 of 1996, against the Complainant and others.

It appears that all the cases filed on behalf of the parties are under minor Sections. Now the understanding is that they will sort out their differences in the Civil Suit.

Hence, the proceedings including the order of cognizance

dated 4.1.1999 passed by the Judicial Magistrate, 1st class, Darbhanga in C.R. case No.9 of 1998 and the order dated 22.4.2008 passed by the Additional District & Sessions Judge, F.T.C. V, Darbhanga in Criminal Revision No.314 of 2000 are hereby set aside. Further the proceeding of Complaint case No.516 of 1993, Complaint case No.281 of 1993, Manigachi P.S. case No.6 of 1998 and Manigachi P.S. case No.188 of 1996, all pending before the court of the Judicial Magistrate, 1st class, Darbhanga are hereby set aside.

The application stands allowed with the aforesaid observations.

(Anjana Prakash, J)

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