

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34159 of 2012

Arising Out of PS.Case No. -3876 Year- 2010 Thana -null District- ARRARIA

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1. Md. Mahboob
2. Manzoor @ Md. Manzoor
Both sons of late Kabir, R/O Village - Doriya Sonapur, P.S. (Forbesganj),
Simraha District - Araria

.... Petitioner/s

Versus

1. The State Of Bihar
2. Samsad, S/O Late Saiyad, R/O Village - Doriya Sonapur, P.S. (Forbesganj),
Simraha District - Araria

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh, Adv.
For the State : Mr. Binod Kumar, A.P.P.
For the Opposite Party No. 2 : Mr. M.K. Rana, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 13-04-2015

Supplementary affidavit filed on behalf of the
Petitioner, be kept on the record. The First Information Report of
some other cases is hereby kept on the record.

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the order dated
13.7.2012 passed by the Judicial Magistrate, 1st Class, Araria, in
Complaint Case No. C3876 of 2010 by which he has taken
cognizance under Section 323 and 380 of the Indian Penal Code.

The background fact of the case is that the Petitioner
No. 1 had instituted Forbesganj P.S. Case No. 123 of 2010 on
11.5.2010 against some persons in which the present Complainant
was a witness. Subsequently, the Complainant filed a First

Information Report after five days later i.e. on 11.5.2010 with regard to the same occurrence of 5.5.2010. Final Report was submitted in the matter but a protest petition was filed on the basis of which cognizance was taken.

The submission of the Petitioner is that evidently, in the background facts when the Petitioner No. 1 had already reported against some of the accused persons who had assaulted him and his family members on 5.5.2010 the present Complaint, on basis of which, instituted this First Information Report with absurd allegations of minor assault and theft having been set up by the accused of his case should be set aside. In the background facts, evidently, the allegations appear to be trumped up.

On the other hand, the counsel for the Complainant submits that since the earlier case was not against him, the argument that he was set up by the accused of the case instituted by the Petitioner No. 1 is not tenable.

Having considered the background facts, I would be inclined to hold that in the nature of allegation against the Petitioner, the Complaint petition is unwarranted and, hence, the application is allowed and the order dated 13.7.2012 passed by the Judicial Magistrate, 1st Class, Araria, in Complaint Case No. C3876 of 2010 is hereby set aside.

(Anjana Prakash, J)

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