

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 27827 of 2011

Arising out of P.S. Case No. -48 Year- 2009 Thana -Bheldi
District- SARAN

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1. Kamla Datt Pandey S/o - Late Pukar Pandey Resident of Village - Basauti, P.S. - Bheldi, District - Saran at Chapra.
 2. Ashwani Pandey Son Of Sri Kamla Datt Pandey Resident of Village - Basauti, P.S. - Bheldi, District - Saran at Chapra
 3. Arun Pandey @ Bua Pandey Son of Sri Kamla Datt Pandey Resident of Village - Basauti, P.S. - Bheldi, District - Saran at Chapra.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Smt. Saroj Devi W/o - Sri Munna Pandey R/o - Village - Basauti, P.S. Bheldi, District- Saran at Chapra.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Udai Shankar Singh, Adv.

For the Opposite Party/s : Mr. Ashok Kumar-I, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 03-02-2015

The Petitioners seek quashing of the entire proceeding including the order of cognizance dated 05.12.2009 passed by the Chief Judicial Magistrate, Saran at Chapra in Bheldi P.S. Case No. 48 of 2009 (G.R. No. 1946 of 2009, Tr. No. 1919 of 2010).

The case of the Informant is that on the relevant date while he was sleeping in her room the accused persons who are her close family members entered in her house and started to assault her on account of family dispute. She suffered abortion due to such assault. The accused persons also committed theft of her personal belongings.

In the nature of dispute between the parties, notices

had been issued to the Opposite Party No. 2 who duly appeared but none appears on her behalf.

It has been submitted on behalf of the Petitioners that the Medical Report did not support the allegation. Further, it is stated in the First Information Report itself that there was a dispute with regard to partition within the family. In the background dispute allegations in absence of medical corroboration falsify the same.

On going through the facts of the case, I would also be inclined to hold that the present allegations appear foisted on the accused persons only with regard to the pending dispute over partition of family property and, hence, the prosecution is an abuse of the process of the Court.

Hence, the application is allowed and the entire proceeding as against all the accused persons including order of cognizance dated 05.12.2009 passed by the Chief Judicial Magistrate, Saran at Chapra in Bheldi P.S. Case No. 48 of 2009 (G.R. No. 1946 of 2009, Tr. No. 1919 of 2010) is, hereby, set aside.

The Application stands allowed.

(Anjana Prakash, J)

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