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IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.16390 of 2016

Arising Out of PS.Case No. -1733 Year- 2013 Thana -KATIHAR COMPLAINT CASE District-KATIHAR

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1. Santosh Kumar Sah Son of Ramjee SAh
2. Ashok Kumar Sah Son of Ramjee Sah
3. Ramjee Sah Son of Late Baidyanath Sah All Resident of Village - Shouraiya Hatwari, P.S.- Dandkhora, District -Katihar

.... Petitioner/s

Versus

1. The State of Bihar
2. Jai Prakash Mandal Son of Late Newa Lal Mandal All Resident of Village - Shouraiya Hatwari, P.S.- Dandkhora, District -Katihar

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Pravin Chandra Prasad
For the Opposite Party/s : Mr. Sunil Kumar Pandey (APP)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

2 12-08-2016 Heard both sides.

The petitioners filed this petition under Section 482 of the Cr. P. C. for quashing the order dated 28.05.2016 passed by Shri Ram Jha, the learned Judicial Magistrate, 1st class, Katihar in Complaint case No. 1733 of 2013 whereby the learned Judicial Magistrate found prima facie case against the petitioners under Section 323, 379 of the IPC.

The complainant filed Complaint case No. 1733 of 2013 alleging therein that on 11.07.2015 at 5 A.M. the petitioners surrounded the complainant and demanded extortion. The accused persons abused and assaulted the complainant and snatched Rs.

1500/- from his pocket. The complainant was examined on S. A. The complainant also examined three witnesses, namely, Pradeep Mandal, Prabhanand Mandal and Sudhir Mandal.

The learned Judicial Magistrate, after perusing the evidence of the complainant and his witnesses, found prima facie case under Section 323, 379 of the IPC to proceed against the accused persons.

It is submitted that Sabita Devi lodged Dandkhora P.S. case No. 75 of 2013 against Dhaniram Mandal @ Jai Prakash Mandal and others under Section 354 and other Sections of the IPC. The occurrence took place on 11.07.2013 at about 5 in the morning. The complaint case is filed with regard to the same occurrence and the complainant has lodged this case in order to save his skin as a counter version. Therefore, the statements of the complainant and his witnesses are not worth reliable and on this ground the learned Judicial Magistrate should have dismissed the complaint petition.

I do not find any merit in the contention of learned counsel for the petitioners as the learned Judicial Magistrate under Section 204 of the Cr. P.C. is only authorized to see as to whether prima facie case is made out against the accused or not. The

learned Judicial Magistrate, after perusing the evidence of complainant and his witnesses, found that prima facie case under Section 323, 379 is made out to proceed against the accused. Therefore, I do not find any illegality in the impugned order.

This quashing petition is dismissed.

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(Prabhat Kumar Jha, J)

BKS/-

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