

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12067 of 2016

Arising Out of PS.Case No. -1659 Year- 2015 Thana -PURNIA COMPLAINT CASE District-
PURNIA

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1. Janki Devi, Wife of Moti Lal Mahto
2. Moti Lal Mahto @ Moti Mahto, Son of Late Sri Chand Mehta
3. Suraj Kumar Mahto alias Suraj Mehta, Son of Moti Lal Mahto
4. Sadanand Roy, Son of Mahadeo Roy
5. Kanhaiya Roy, Son of Sadanand Roy,
All resident of Village – Gulabbagh, Near G. Poddar Road, P.S. Sadar,
District Purnea.

.... Petitioner/s

Versus

1. The State of Bihar
2. Raj Kumari Devi, wife of Prakash Chauhan, R/o Gulabbagh, Near G.
Poddar Road, P.S. Sadar, District Purnea.

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Ram Prawesh Kumar, Advocate.

For the Opposite Party/s : Mr. S.D. Singh Yadav, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 19-08-2016

Heard both sides.

The petitioners filed this petition under Section 482 of the Code of Criminal Procedure for quashing the order dated 03.09.2015 passed in Complaint Case No. 1659/2015, CIS No. 1675/2015, by which prima facie case under Sections 323, 379, 34 of the Indian Penal Code is found to have been made to proceed against the petitioners.

The facts relevant for disposal of this petition are that the complainant filed Complaint Case No. 1659/2015, CIS No. 1675/2015 against the petitioners alleging therein that on 18.01.2016, at about 12:00 Noon, all the accused persons having



been armed with different weapons entered into her house and assaulted the complainant. Sadanand Rai assaulted her with fists and slaps and also torn her clothes and snatched ornaments. Suraj Mahto snatched her ear rings. When Fuleshwari Devi, sister-in-law of the complainant, came to save the informant, the accused persons assaulted her and snatched her ornaments. On such the complaint petition having been filed, the complainant was examined on solemn affirmation. The complainant examined her witnesses and after perusal of the evidence, the learned Judicial Magistrate found *prima facie* case under Sections 323, 379, 34 of the Indian Penal Code vide order dated 03.09.2015 passed in Complaint Case No. 1659/2015, CIS No. 1675/2015. The petitioners moved in Criminal Revision No. 186 of 2015 against the order dated 03.09.2015 passed in Complaint Case No. 1659/2015, CIS No. 1675/2015. The learned Sessions Judge vide order dated 18.01.2016 dismissed the revision petition of the petitioners. Thereafter, the petitioners moved this Court by filing the present petition for quashing of both the aforesaid orders dated 03.09.2015 and 18.01.2016.

Learned counsel for the petitioners submits that from perusal of the complaint petition itself it appears that the complainant had stated that a Title Suit is going on between both

the parties in the court of Sub Judge and her husband had gone to Civil Court, Purnea to do the needful in the suit. Therefore, it appears that due to land dispute this false case has been lodged.

I do not find any force in the submissions of the learned counsel for the petitioners on the simple ground that after enquiry, the Judicial Magistrate is only to see under Section 204 Cr.P.C. whether *prima facie* case is made out or not. The yardstick for appreciating the evidence of the complainant and her witnesses at the time of finding *prima facie* case is different from the yardstick for appreciating the evidence at the time of finding the accused guilty. The Judicial Magistrate is only to see whether on perusal of the evidence adduced during the course of enquiry, a *prima facie* is made out to proceed against the petitioners and I do not find any illegality in the order of the learned Judicial Magistrate and the learned Sessions Judge, Purnea. Accordingly, this quashing petition is dismissed.

If the petitioners are so advised, they may raise all the points, which have been raised in this petition, at the time of framing of charge.

(Prabhat Kumar Jha, J)

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