

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.10986 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- EASTCHAMPARAN(MOTIHARI)

- =====
1. Rajesh Kumar Sinha @ Bablu S/o Shiva Shankar Prasad
 2. Shiva Shankar Prasad s/o late Jagat Narayan Prasad, both resident of village Barharwa Lakhansen, P.S. Dhaka, Dist. East Champaran, at present residing at Mo-Agarwa, P.S. Motihari Town, Dist. East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. Vinod Kumar 'Anal' S/o late Jagat Narayan Prasad, resident of village Barharwa Lakhansen, P.S. Dist. East Champaran

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhay Bhushan Sinha, Advocate
Mr. Baban Roy, Advocate
For the Opposite Party/s : Mr. S.K. Singh, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 16-05-2016

The Petitioners seek quashing of the order of cognizance dated 12.7.2010 passed by the Judicial Magistrate, 1st class, Motihari in Complaint case No.597 of 2009.

The case of the Complainant is that on the date of occurrence the accused persons entered in his house, variously assaulted him and took away his house hold articles.

The submission of the Petitioners is that the Petitioner No.2 and the Opposite Party No.2 are full brothers, whereas the Petitioner No.1 is the son of Petitioner No.2 and there was a civil suit bearing Title Suit No.185 of 1994 pending between them. It is on account of the Complainant being aggrieved with his share of the

property that he has instituted the present malicious Complaint.

On the last occasion notices had been issued to the Opposite Party No.2 but none appears on his behalf.

Having considered the absurd nature of allegations in the Complaint Petition and also the relationship between the parties I have no hesitation in holding that the present prosecution is malicious and deserves to be set aside.

Hence, the application is allowed and the proceeding including the order of cognizance dated 12.7.2010 passed by the Judicial Magistrate, 1st class, Motihari in Complaint case No.597 of 2009 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	19.05.2016
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