

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39056 of 2010

Arising Out of PS.Case No. -0 Year- null Thana -null District- BEGUSARAI

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1. Raj Kumar Sah son of Deven Sah
 2. Savita Devi @ Savita Kumari wife of Raj Kumar Sah
 3. Priti Bharati daughter of Raj Kumar Sah
 4. Priyanka Raj daughter of Raj Kumar Sah, all residents of Mohalla Bakhari East, Ward No.01, P.S. Bakhari, District Begusarai

.... Petitioner/s

Versus

1. The State of Bihar
2. Pappu Sah son of Sri Sahdeo Sah, resident of Bakhari East, Ward No.01, Police Station Bakhari, District Begusarai

.... Opposite Party/s

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Appearance :

For the Petitioner/s : None.

For the Opposite Party/s : None

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 22-02-2016

No one appears on behalf of either of the parties.

The Petitioners seek quashing of the order of cognizance dated 24.9.2010 passed by the court of Sri A.K. Tripathi, Judicial Magistrate, 1st class, Begusarai in Complaint case No.3035C of 2009.

The case of the Complainant is that on the date of occurrence the accused persons came to his door and started to abuse him. When they started assaulting, his wife came to save him but the accused pulled her Saree and hence the present Complaint.

It appears that fact of the matter is that the daughter of Petitioners No.1 and 2 was coming home on a bicycle when the Complainant and the witnesses of the Complaint obstructed her, on

account of which there was an altercation and a panchayati. It is then the Complainant started threatening them, on account of which the Petitioner No.2 instituted Bakhari P.S. case No.145 of 2009 on 15.10.2009, which on investigation was found true and hence charge sheet was submitted as against the Complainant. This Complaint was thereafter filed on 23.11.2009 of an occurrence dated 16.10.2009 so as to create a defence.

Having considered the aforesaid, this Court would be inclined to hold that the present prosecution is a gross abuse of the process of the court and deserves to be set aside. Hence, the application is allowed and the proceeding including the order of cognizance dated 24.9.2010 passed by the court of Sri A.K. Tripathi, Judicial Magistrate, 1st class, Begusarai in Complaint case No.3035C of 2009 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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