

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37761 of 2014

Arising Out of PS.Case No. -3140 Year- 2012 Thana -VAISALI COMPLAINT CASE District-
VAISHALI(HAJIPUR)

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1. Baby Devi Wife of Shivji Chaudhary
2. Shwati Devi Wife of Rupesh Chaudhary
3. Jai Sundri Devi Wife of Baleshwar Chaudhary
4. Khusboo Devi Wife of Sunil Chaudhary All residnet of village-
Jahangirpur Salkhani, P.S.- Mahua, District- Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar
2. Birendra Chaudhary Son of Late Ramanand Chaudhary residnet of
village- Jahangirpur Salkhani, P.S.- Mahua, District- Vaishali.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Parasmani, Advocate
For the opposite party : Mr. Rama Shankar Das, Advocate
For the Opposite Party/s : Mr. J.Upadhyay(App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

6 04-08-2017 Heard the learned counsel for the petitioner, learned
counsel for the opposite party no. 2 as well as the State.

This application is filed under Section 482 of the Code
of Criminal Procedure, 1973 for setting aside the cognizance order
dated 29.05.2013 passed by the learned Judicial Magistrate, 1st
class, Hajipur in complaint Case No. 3140 of 2012 whereby
cognizance has been taken under Sections 147, 341, 323, 379,
504/34 of the Indian Penal Code.

It is submitted by learned counsel for the petitioners that
there is no any specific allegation alleged against the petitioner no.



3 and 4 in the entire complaint petition or in the statement given by the Complainant on solemn affirmation only superfluous allegation is leveled against the petitioner nos. 1 & 2 that both took out Rs. 20,000/- from the pocket of the son of the complainant. In fact, the petitioners and complainant are next door neighbours and prior to lodging of this complaint the petitioners had lodged a police case i.e. Mahua P.S. Case No. 364 of 2012 on 29.08.2012 against the complainant and his family members. Therefore, for taking personal vengeance this complaint has been filed implicating female members of the petitioners' family.

Learned counsel appearing on behalf of the opposite party no. 2 submits that there is specific allegation that all the accused persons assaulted and two of the petitioners committed theft and the criminal revision filed by other accused persons was earlier dismissed.

Having considered the rival submissions of both sides and on perusal of the record, this Court is of the view that no prima facie case is made out against the petitioners or there is no specific allegation against them of doing assault only allegation of theft is alleged against petitioner Nos. 1 & 2, namely, Baby Devi and Shwati Devi that they jointly took out the money from the pocket which appears absurd and superfluous in nature. So the



criminal proceedings including the cognizance order dated 29.05.2013 passed in Complaint Case No. 3140 of 2012 with respect to these four petitioners only is hereby set aside.

The application is allowed.

(Arun Kumar, J.)

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