

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17365 of 2014

Arising Out of PS.Case No. -1605 Year- 2012 Thana -MADHUBANI COMPLAINT CASE District-
MADHUBANI

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1. Budhani Devi, wife of late Chalittar Mahto
2. Jay Kumar Mahto, son of late Chalittar Mahto
Both resident of village- Pokhrauni, P.S.- Rahika, District- Madhubani

.... Petitioner/s

Versus

1. The State of Bihar
2. Bikau Mahto, son of Shivilal Mahto
Both resident of village- Pokhrauni, P.S.- Rahika, District- Madhubani

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Baidyanath Thakur, Advocate.
For the Opposite Party/s : Mr. Parmanand Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 31-07-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 18.01.2014 passed by the learned Chief Judicial Magistrate, Madhubani, in C.R. No. 1605 of 2012 by which the learned Magistrate has after holding enquiry found *prima facie* case against the petitioners for the offences under Sections 323, 379 and 504 of the Indian Penal Code.

2. Heard learned counsel for the petitioners and State.

3. It has been submitted on behalf of the petitioners that it is a matter of purely civil dispute. The petitioner No. 1 is coming in exclusive possession of the land in question. The land in



question was purchased by husband of petitioner No. 1 by a registered sale deed dated 25.01.1977 (Annexure-2). Thereafter, proceeding under Section 145 Cr. P.C. was also initiated with respect to the aforesaid land and the learned Magistrate by order dated 4.11.2012 found possession of these petitioners over the land in M.R. Case No. 254 of 2012 (Annexure-4). The rent receipt is also issued in favour of the husband of the petitioner No. 1 (Annexure-5).

4. It is alleged in the complaint petition that on the date of occurrence these petitioners were uprooting the *Tatti* of the house of the complainant and when he raised objection, the petitioners assaulted with fists and slaps and snatched Rs.6,100/ and other articles as mentioned in the complaint petition.

5. The learned Magistrate has after holding enquiry found *prima facie* case against these petitioners for the offence under Sections Sections 323, 379 and 504 of the Indian Penal Code by the impugned order dated 18.01.2014 which is challenged by these petitioners in this Criminal Miscellaneous application.

6. Notice was issued to the opposite party No. 2 which was validly served, but none has appeared on his behalf.

7. Heard learned counsel for the State.

8. From the copy of Solemn Affirmation of the complainant which is enclosed with the complaint petition it appears



that to court question, the complainant has stated that there is land dispute between the parties.

9. From perusal of Annexure-2 it appears that the land was purchased by Ram Chalitar Mahto on 25.01.1977 through a registered sale deed from one Anup Lal Mahto and, thereafter, rent receipt is being issued in his favour which is annexed as Annexure-5. Further, proceeding under Section 145 Cr. P.C. was initiated between both the parties on the basis of petition filed by petitioner No. 1 and the learned Magistrate by order dated 16.01.2014 found possession of the petitioner over the land in dispute. Further it appears from Annexure-3 that during demarcation of the land, the Circle Officer found the land in possession of the petitioner and restrained the complainant from making any construction over the land in question.

10. In such circumstances, this Court is of the view that the instant Criminal Proceeding has been filed by the complainant just to settle the score with the petitioners with whom there is land dispute and documents with respect to the aforesaid land is in favour of the petitioners as it appears from Annexure-1 which is mentioned in the complaint petition.

11. The Supreme Court in a Judgment reported in **(2009) 8 SCC 751 (Md. Ibrahim and Ors. Vs. State of Bihar and Anr.)** has held;



“...there is growing tendency of complainants attempting to give the cloak of a criminal offence to matters which are essentially and purely civil in nature, obviously either to apply pressure on the accused, or out of enmity towards the accused, or to subject the accused to harassment. Criminal courts should ensure that proceedings before it are not used for settling scores or to pressurize parties to settle civil disputes. But at the same, it should be noted that several disputes of a civil nature may also contain the ingredients of criminal offences and if so, will have to be tried as criminal offences, even if they also amount to civil disputes.”

12. Therefore, in such circumstances, the instant Criminal Proceeding has been initiated with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge to pressurize the petitioner to settle civil disputes.

13. Accordingly, the impugned order dated 18.01.2014 passed by the learned Chief Judicial Magistrate, Madhubani, in C.R. No. 1605 of 2012 along with the entire Criminal Proceeding is hereby quashed.



14. This Criminal Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

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AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	10/08/2017
Transmission Date	10/08/2017

