

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9147 of 2016

Arising Out of PS.Case No. -199 Year- 2013 Thana -WEST CHAMPARAN COMPLAINT District-
WESTCHAMPARAN(BETTIAH)

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Hasim Gaddi Son of Mahanath Gaddi, Resident of Village - Dokari, Police
Station - Dhanaha, District - West Champaran.

.... Petitioner

Versus

1. The State of Bihar.
2. Kishuni Gaddi, Son of Late Mawal Gaddi, Resident of Village -
Dokari, Police Station - Dhanaha, District - West Champaran.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Milind Kumar Mishra

For the Opposite Party/s : Mr. Kr.Virendra Narayan(App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

4 30-10-2017 Heard learned Counsel for the petitioner and the learned

Counsel for the State as also the learned Counsel appearing on

behalf of O.P. No. 2.

The petitioner seeks quashing of the order dated
10.5.2013 passed by the learned SDJM, Bagaha, West
Champaran in Trial No. 5332 of 2013 arising out of Complaint
Case No. 199(C) of 2013, whereby cognizance of the offence
under Section 395 of the IPC has been taken.

The short fact, as alleged in the complaint is that, the
accused persons being persons of criminal background many-a-
times made attempt to grab the land of the complainant and in
the process also assaulted and threatened to take away his life.



In this regard, the complainant earlier wrote letters to various authorities. Being aggrieved by that the accused persons under the leadership of Gaji Gaddi had assembled near the sugarcane field and in the afternoon at 2 PM while the complainant was going by his bicycle to market to purchase household goods then all the accused persons wrongfully restrained him with arms and Gaji Gaddi took out Rs. 12,000/- from him, abused and threatened him.

Learned Counsel for the petitioner submits that in fact the accused persons and the complainant are agnates, living in the neighbour hood and they have had series of civil litigations. So in order to put pressure on them this false complaint case was lodged. Learned Counsel submits that the petitioner's father Mahanth Gaddi had earlier approached before this Court against the cognizance order vide Cr. Misc. No. 1751 of 2014 and a coordinate Bench of this Court quashed the cognizance order and the subsequent criminal proceeding against him. Moreover, similar is the allegation against the petitioner. So his case stands on identical footing in view of the allegations made in the complaint and the materials surfaced during the enquiry stage. The complainant initially made six accused persons in the complaint, but later on entered into compromise with three



persons after settling the civil dispute with them and as the petitioner did not yield to the pressure so declined to enter into compromise with him. Learned Counsel submits that in this situation the entire proceeding should be quashed.

Learned Counsel appearing on behalf of O.P. No. 2 supported the impugned order and opposed this application stating that the allegations make out prima facie case against the petitioner.

Having considered the rival submission and on perusal of the records, it appears that the allegation with respect to the petitioner is identical to his father Mahanth Gaddi. The fact remains that there are series of civil litigations between them and they are agnates which is not denied. The allegation of committing dacoity in day hours at 2 PM also appears absurd. This is also not controverted that the complainant entered into compromise with rest three accused persons. So in this background in fact the prosecution launched by the complainant appears malicious in nature.

For the aforesaid reasons the entire criminal proceeding against the petitioner inclusive of the cognizance order dated 10.5.2013 passed by the SDJM Bagaha, West Champaran in Trial No. 5332 arising out of Complaint Case No. 199(C) of



2013 is hereby quashed.

This application is accordingly allowed.

(Arun Kumar, J.)

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