

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18615 of 2016

Arising Out of PS.Case No. -717 Year- 2012 Thana -ROHTAS COMPLAINT CASE District-
SASARAM (ROHTAS)

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1. Wakil Singh son of Ram Pravesh Singh
2. Sharda Devi Wife of Wakil Singh
3. Arti Kumari, Daughter of Wakil Singh
4. Baban Singh son of Late Kesho Singh
5. Vikash Singh, son of Late Kesho Singh
6. Ramayan Singh, son of Late Chandradip Singh
7. Ram Ashish Singh, Son of Sri Bhagwan Singh
8. Sanjay Singh son of Ramayan Singh
9. Raju Singh, son of Ramayan Singh
10. Chandan Singh son of Ramayan Singh
11. Kamesh Singh, Son of Ramayan Singh
12. Ram Awtar Singh, son of Late Chandradip Singh, All resident of
village- Sokhapur, P.S.- Dhansoi, District- Buxar

.... Petitioner/s

Versus

1. The State of Bihar
2. Shiv Shankar Singh, son of Kameshwar Singh, resident of village- Bakra,
P.O. Gunsej, P.S.- Dinara, District- Rohtas

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sada Nand Roy

For the Opposite Party/s : Md. Ansural Haque(App)

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**

ORAL ORDER

2 23-05-2017

The present application has been filed for quashing the order dated 22.6.2013 passed by the learned Judicial Magistrate Ist Class, Bikramganj, Rohtas in Complaint Case no. 717 of 2012 whereby process has been directed to be issued against the petitioners on the basis of protest-cum-complaint after cognizance being taken for the offences under sections 323 and 379/34 of IPC. Further prayer has been made to quash the order dated 19.1.2016 passed by the learned Sessions Judge, Rohtas at



Sasaram, Camp Court Bikramganj in Cr. Revision No. 259 of 2013 whereby the order of the learned Magistrate dated 22.6.2013 has been upheld. Hence, prayer has been made to quash both the orders passed by the learned Magistrate as well as the learned Sessions Judge.

The prosecution case would unveil that Shiv Shankar Singh, O.P. No. 2 lodged Complaint Case No. 717 of 2012 on 12.11.2012 alleging therein that the property was partitioned in 1994 and on 10.11.2012 all the accused persons armed with weapon came and harvested the paddy crops of the share of the complainant. The complainant forbade them then the petitioners opened fire, assaulted the complainant and snatched gold chain worth rupees sixteen thousand. The accused persons took away the harvested crops.

It is submitted by learned counsel for the petitioners that in the background of land dispute the accusation has been levelled.

At the at the stage of exercise of jurisdiction under section 190(1)(a) of the Cr.P.C., the Magistrate has to see after examining the accusation levelled in the complaint, S.A. of the complainant and statements of the enquiry witnesses that prima



facie case is made out. A useful reference may have to the case of Sonu Gupta Vs. Deepak Gupta and Ors. 2015 (2) PLJR (SC) 321.

Paragraph no.7 of the same reads as follows:-

“Having considered the details of allegations made in the complaint petition, the statement of the complainant on solemn affirmation as well as materials on which the appellant placed reliance which were called for by the learned Magistrate, the learned Magistrate, in our considered opinion, committed no error in summoning the accused persons. At the stage of cognizance and summoning the Magistrate is required to apply his judicial mind only with a view to take cognizance of the offence, or, in other words, to find out whether prima facie case has been made out for summoning the accused persons. At this stage, the learned Magistrate is not required to consider the defence version or materials or arguments nor he is required to evaluate the merits of the materials or evidence of the complainant, because the Magistrate must not undertake the exercise to find out at this stage whether the materials will lead to conviction or not.”

The accusation is specific and it appears that the learned Magistrate after going through the complaint, solemn affirmation of the complainant and the statements of enquiry witnesses, passed the impugned order and the said order has been upheld by the learned



Sessions Judge in revision.

Hence, at this stage, this Court is not inclined to interfere.

The present quashing application is disposed of with liberty to the petitioners to raise all the contentions at the appropriate stage of proceeding.

(Dinesh Kumar Singh, J)

Anil/-

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