

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29513 of 2014

Arising Out of PS.Case No. -1283 Year- 2011 Thana -KHAGARIA COMPALINT CASE District-
KHAGARIA

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1. Nirmalesh Poddar
2. Kamlesh Poddar @ Kamlesh Kr. Poddar Both sons of late Pramod Ranjan Poddar resident of Sanhauli, P.S. Chitragupta Nagar, District Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Abdul Gaffar son of late Chhotelal @ Lal Mohammad resident of Jai Prakash Nagar, Nala Road, Ward No. 21, P.S. Khagaria, District Khagaria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dronacharya

For the Opposite Party/s : Mr. Manoj Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

3 25-07-2017 Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor for the State.

2. The petitioners have filed this application under Section 482 of the Code of Criminal Procedure challenging the order dated 14.02.2014 passed by the learned Ad hoc Additional District & Sessions Judge-II, Khagaria in Cr.Revision No.06 of 2013 whereby he declined to set aside the cognizance order dated 5.10.2012 passed by Judicial Magistrate, Khagaria, in Complaint Case No.1283C of 2011 taking cognizance of the offence under Sections 448 and 380 of the I.P.C.

3. The complainant's case, in brief, as narrated in the present complaint petition, is that accused persons along with



2 – 3 strangers entered into the fruit shop of the complainant by breaking the canvas tatti and committed theft of plastic carrets, weighing machine, table fan, table and bench.

4. Learned counsel for the petitioners submits that as the allegation leveled in the complaint is absurd and improbable. Further submission is that prior to filing of the present complaint brother of the accused persons had filed a complaint bearing Complaint Case No.1087C of 2010 against the complainant of the present case and at that point of time the complainant deposed falsely that he was dealing in vegetable.

5. Learned A.P.P. submits that there is no improbability in the allegation leveled against the petitioners in the complaint.

6. Having considered the rival submissions, there appears allegation of theft against the petitioners, and it contains no element of improbability as far as allegation part is concerned, exercise of inherent jurisdiction under Section 482 Cr.P.C. should be done sparingly. It should not be exercised to stifle the prosecution case. Therefore, finding no ground for quashing the impugned order, the petition stands dismissed.

(Arun Kumar, J)

AnilKrSinha/-

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