

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.31406 of 2014

Arising Out of PS.Case No. -315 Year- 2013 Thana -ROHTAS COMPLAINT CASE District-
SASARAM (ROHTAS)

- =====
1. Bipin Bihari Prasad, son of late Ram Pyare Prajapati, resident of village-Kumhar Toli, P.S.-Dehari and District-Rohtas.
 2. Manoj Kumar Gupta, son of Rajaram Prasad Gupta, resident of village-Makrin, P.S.-Dalmia Nagar, District-Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar
2. Sanjay Kumar Singh, son of late Ram Pravesh Singh, resident of mohalla-Subhash Nagar, P.S.-Dehari, District-Rohtas.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Verma, Adv.

For the Opposite Party no.1 : Mr. Arvind Kumar Pandey, APP

For the Opposite Party no.2: Mr.Rajesh Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 10-10-2017

Heard learned counsel for the petitioners, learned counsel representing the opposite party no.2 and learned APP for the State.

The petitioners are seeking quashing of the order dated 02.05.2014 passed by the learned Judicial Magistrate-1st Class, Sub-Divisional Court, Dehri, Rohtas at Sasaram by which he has taken cognizance of the offences under Sections 323, 379 and 504 of the Indian Penal Code in Complaint Case No.315 of 2013.

Learned counsel for the petitioners submits that it is out and out a false prosecution against the petitioners because of some enmities between the parties due to cancellation of power of attorney



by the complainant which was earlier executed in favour of the accused-petitioner no.1. Learned counsel further submits that vide Annexure-2 to the present application the petitioner no.1 has also filed a Complaint Case No. 6 of 2013 in the court of learned Sub-Judge, Sasaram, Rohtas wherein he has alleged that this complainant had not paid back Rs.2,50,000/- given under some kind of transaction.

The whole case of the petitioners is that because of that enmity the present complaint has been filed, hence, the order taking cognizance is fit to be set aside.

On the other hand, learned counsel representing the opposite party no.2 submits that the allegations made in the complaint petition have been supported by the complainant and two witnesses are consistent on the point that these petitioners had committed the alleged acts and omissions. Learned counsel therefore submits that for purpose of finding a prima facie case there are sufficient materials on the record and the learned Magistrate has not committed any error in issuing summons to the petitioners.

This Court has perused the record including the supplementary affidavit which has been filed today. It is apparent from the records that earlier the complainant had executed a power of attorney in favour of the petitioner no.1 which was later on cancelled leading to dispute between both the parties. The allegations made in



the complaint petition may have arisen for such dispute between the parties. The fact remains that the allegations are supported by two witnesses who are consistent in their statements on the allegations.

This being the position, this Court is not inclined to go into the merit of the allegations for purpose of quashing of the impugned order. No illegality or infirmity could be found from the impugned order.

The application is, thus, dismissed.

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	
CAV DATE	
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