

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50453 of 2013

Arising Out of PS.Case No. -1282 Year- 2011 Thana -BHOJPUR COMPLAINT CASE District-
BHOJPUR

- =====
1. Baban Singh Son Of Late Ram Sarikhan Prasad Resident Of Village- Baulipur, P.S.- Jagdishpur, District- Bhojpur
 2. Birendra Bahadur Singh @ Birendra Singh Son Of Late Ram Sarikhan Prasad Resident Of Village- Baulipur, P.S.- Jagdishpur, District- Bhojpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. Ashwani Kumar @ Ashwani Kumar Singh Son Of Late Ram Pukar Singh Resident Of Village- Baulipur, P.S.- Jagdishpur, District- Bhojpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh, Advocate

For the Opposite Party/s : Mr. Madan Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 23-01-2017

The petitioners are named accused in Complaint Case No.1282C of 2011 brought by Opposite Party No.2 Ashwani Kumar @ Ashwani Kumar Singh.

2. Allegation is that petitioners committed theft of mango from the tree of the complainant, when the complainant protested the petitioner and others chased. The occurrence allegedly took place on 31.07.2011.

3. After enquiry under Section 202 Cr.P.C. initially the complaint petition was dismissed by order dated 04.07.2012 by the learned Judicial Magistrate, 1st Class, Bhojpur, Ara, on the ground that the complainant did not produce any title deed to support that the said



tree was on the land of the complainant and there was bona fide dispute between the parties for land. The order was challenged before the learned Sessions Judge, Bhojpur at Ara, in Cr. Revision No.160 of 2012 Ashwani Kumar Singh @ Ashawani Kumar V. The State of Bihar and others. By order dated 29.04.2013, the learned Sessions Judge, allowed the Cr. Revision and directed for further enquiry. Thereafter, by the impugned order the petitioners have been summoned to face trial for the offence under Sections 323 and 379 of the Indian Penal Code.

4. Submission of the petitioner is that there is no whisper of commission of hurt either in the complaint petition or statement of the witnesses examined during enquiry. Hence, the impugned order has been passed in a mechanical way.

5. The petitioner is at liberty to raise the issue at the time of framing of the charge and the Court-below shall pass a reasoned order.

6. With the aforesaid observation, I do not find any reason to interfere with the impugned order. Accordingly, this application stands dismissed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	27.01.2017
Transmission Date	27.01.2017

