

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33463 of 2014

Arising Out of PS.Case No. -2214 Year- 2013 Thana -SARAN COMPLAINT CASE District-
SARAN

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1. Chandrika Singh Son of Late Yadunandan Singh R/o Village-Nawalpur, P.S.-Daudpur, District-Chapra.
2. Atiullah Ansari Son of Md. Ali Hasan R/o Village-Chakiya, P.S.-Manjhi, District-Chapra.
3. Abhay Kumar Singh Son of Late Ram Ayodhya Singh R/o Village-Chatat, P.S.-Barahara, Distict-Bhojpur at Ara, then Officer in Charge of Manjhi Police Station, District-Chapra.

.... Petitioner/s

Versus

1. The State of Bihar
2. Naim Ansari Son of Mobin Miyan R/o Village-Chakiya, P.S.-Manjhi, District-Chapra.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binod Murari Mishra
For the State : Mrs. Asha Kumari, A.P.P.
For Opp. Party no.2 : None

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL ORDER

3 18-08-2017 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

None appears on behalf of Complainant- Opposite
Party no.2.

This application under Section 482 Cr.P.C. is
directed to quash the order dated 24.03.2014 passed in Complaint
Case No. 2214 of 2013/Tr. No. 4032 of 2014 whereunder the
Court of learned Judicial Magistrate, 1st Class, Saran at Chapra
summoned the accused petitioners, on enquiry, under Section 204



Cr.P.C., finding prima facie case for the offences under Sections 166, 341, 342, 323/34 of the Indian Penal Code.

The fact leading to this application is that the complainant- opposite party no.2 filed Complaint Case No. 2214 of 2013 against the petitioners with contention that in the evening of 22.07.2013 he came at his house after doing the work of labour then Basant Manjhi, Choukidar of Manjhi Police Station came and told him that he was called by the Officer Incharge of Manjhi Police Station (Petitioner no.3). Thereafter he went to Police Station Manjhi along with Basant Manjhi where Officer Incharge of Manjhi Police Station (Petitioner no.3) assaulted him with fists and slaps and put him in the lock up and released him on furnishing bail bond by Haidar Ali. Earlier proceeding under Section 144 Cr.P.C. was going on in between him and the accused- Atiullah Ansari (Petitioner no.2) and his brother, accused Azijullah Ansari before the learned S.D.M., Chapra, in which order was passed on 03.07.2007. The said order was challenged by him through Cr. Misc. No. 77 of 2008, which was disposed of on 19.03.2008 setting aside the order of learned S.D.J.M., Chapra. Accused- petitioner no.3, Officer Incharge of Manjhi Police Station in influence of accused petitioner no.2 Atiullah Ansari and his brother accused Azijullah Ansari called him at Police



Station and assaulted him and also registered Manjhi P.S.Case no. 115 of 2013 for the offences under Sections 269, 270 and 427 of the Indian Penal Code against him and also released him on furnishing bail bond by Haider Ali s/o late Israil Mian as bailor. While he told accused petitioner no.2, Officer Incharge of Manjhi Police Station that the order of the learned Sessions Judge is in his favour inspite of that accused petitioner no.2-Atiullah Ansari and his brother accused Ajijullah damaged the drain. Regarding the occurrence his wife Sahjahan Khatoon sent typed copy of written report to the Superintendent of Police, Saran but by mistake the date was typed as 24.07.2013 in place of 23.07.2013 on the written report. At that time Officer Incharge of Police Station (accused petitioner no.3) also took Rs. 1200/- from his pocket forcibly.

Learned counsel appearing on behalf of the petitioners submits that, in fact, Azijullah Ansari, brother of accused petitioner no.2 who is also an accused along with the petitioners had submitted the written report on 22.07.2013 at Police Station Manjhi and on the basis of said report Manjhi P.S.Case no. 115 of 2013 was instituted under Sections 269, 270 and 427 of the Indian Penal Code against the complainant-opposite party no.2 and others on 22.07.2013. In the said case,



accused petitioner no.3, being Officer Incharge of Manjhi Police Station called the complainant- opposite party no.2 at police station and released him after executing bail bond by Haider Ali on the same day. But with ulterior motive the complainant- opposite party no.2 filed present complaint case in which the petitioners and two others have been made accused.

On perusal of the record it appears that on the basis of written report of Ajijullah s/o Ali Hasan, brother of petitioner no.2 Aziullah Ansari, Manjhi P.S.Case No. 115 of 2013 was instituted under Sections 279, 270 and 427 of the Indian Penal Code against the complainant- opposite party no.2 on 22.07.2013. Thereafter present Complaint Case No.2214 of 2013 is filed by the complainant –opposite party no.2 in the Court of learned C.J.M., Chapra on 24.07.2013 in which petitioners along with Basant Manjhi and Atiullah brother of petitioner no.2 have been made accused in which they have been summoned through the impugned order. As such Complaint Case No. 2214 of 2013 filed by the Complainant- opposite party no.2 appears to be counter blast of Manjhi P.S.Case no. 115 of 2013, the impugned order summoning the accused petitioners and other two accused named in the compliant Case no. 2214 of 2013, on enquiry, under Section 204 Cr.P.C. finding prima facie case under Sections 166,



341, 342, 323/34 of the Indian Penal Code is illegal and abuse of process of court.

In the result, the order dated 24.03.2014 passed in Complaint Case No. 2214 of 2013/Tr. No. 4032 of 2014 by the learned Judicial Magistrate, 1st Class, Saran summoning the petitioners and other two accused named in complaint petition, on enquiry, under Section 204 Cr.P.C. finding prima facie case under Sections 166, 341, 342, 323/34 IPC against the accused-petitioners and entire criminal proceedings is hereby quashed.

The application stands allowed.

(Rajendra Kumar Mishra, J)

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