

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.8369 of 2012**

Arising Out of PS.Case No. -0 Year- null Thana -null District- WESTCHAMPARAN(BETTIAH)

- =====
1. Arbind Singh @ Arbind Kumar Singh S/O Late Braj Bhushan Singh Resident Of Village- Semara, P.S.- Kuber Asthan, District- Kushi Nagar (U.P.)
  2. Ashok Singh @ Ashok Kumar Singh S/O Late Braj Bhushan Singh Resident Of Village- Semara, P.S.- Kuber Asthan, District- Kushi Nagar (U.P.)
  3. Budhai Yadav S/O Late Jagdeo Yadav Resident Of Village- Warwa, Nauka Tola, P.S.- Dhanaha, District- West Champaran at Bettiah
  4. Neur Yadav S/O Jiut Yadav Resident Of Village- Warwa, Nauka Tola, P.S.- Dhanaha, District- West Champaran at Bettiah
  5. Heeraman Bin S/O Late Brahmdeo Bin Resident Of Village- Warwa, Nauka Tola, P.S.- Dhanaha, District- West Champaran at Bettiah
  6. Nandlal Nishad S/O Late Munni Nishad Resident Of Village- Warwa, Nauka Tola, P.S.- Dhanaha, District- West Champaran at Bettiah

.... .... Petitioners

Versus

1. The State of Bihar
2. Nand Yadav, Son of Late Vimal Yadav, Resident of Village Barwa Kharshal, P.S. Dhanaha, District West Champaran

.... .... Opposite Parties

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**Appearance :**

|                     |   |                                    |
|---------------------|---|------------------------------------|
| For the Petitioners | : | None                               |
| For the State       | : | Mr. B.M. Sinha, APP                |
| For O.P. No.2       | : | Mr. Vijay Kr. Singh No.1, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR**

**ORAL JUDGMENT**

**Date: 10-10-2017**

Heard learned APP for the State as well as learned counsel appearing on behalf of opposite party no.2. None appears on behalf of the petitioners.

2. The petitioners have filed this quashing application under Section 482 Cr.P.C. seeking quashing of the cognizance order dated 15.09.2011, passed by learned SDJM, Bagaha, West Champaran whereby the learned SDJM has taken cognizance of the offence under Sections 384 and 379 of the Indian Penal Code in Complaint Case



No.762 of 2011 and also seek quashing of the entire criminal proceeding.

3. A short fact, as alleged in the complaint, is that while the complainant was returning back with his son on a motorcycle from the brick kiln where they went to give advance money for bricks to the brick kiln owner but the owner of brick kiln was not there so while returning back, the accused persons intercepted to the complainant on the way and took out a pistol and putting that on the chest of the complainant's son snatched away the bag in which Rs.50,000/- cash was kept and also his golden chain was snatched by the accused persons and thereafter the accused persons escaped away.

4. The grounds taken in the quashing application by the petitioners are that the petitioners have been falsely implicated due to land dispute and there are cases and counter cases between both sides, cognizance has also been taken in cases instituted by the accused side against the complainant.

5. Learned counsel for opposite party no.2 submits that there is case and counter cases between both sides but which case is true, it can only be decided after the trial and the court has taken cognizance being *prima facie* satisfied after holding enquiry.

6. Having considered the grounds taken by the petitioners in the quashing application as well as on perusal of the records and



submission of the learned counsel for opposite party no.2 and the State, the Court finds that it is not the case that no ingredient of the offence under which cognizance has been taken is made out. Only because the petitioners-accused and complainant are on litigating terms and there are cases and counter cases between the two on that ground the criminal case cannot be quashed. In such situation only after trial the falsity and truth of the allegations levelled by both sides can be decided, so there is no ground for interfering with the cognizance order.

7. Accordingly, the quashing application stands dismissed.

**(Arun Kumar, J.)**

S.Kumar/-

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| AFR/NAFR          | NAFR       |
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