

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No 40793 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- BEGUSARAI

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Ghanshyam Yadav S/O Late Dhanik Yadav Resident Of Village - Sakara , P.S. -
Garhpura , District - Begusarai

.... Petitioner/s

Versus

1. The State Of Bihar
2. Sajjan Yadav S/O Late Phucho Yadav Resident Of Village - Sakara , P.S. -
Garhpura , District - Begusarai
3. Ram Shakha Yadav S/O Late Phucho Yadav Resident Of Village - Sakara , P.S.
- Garhpura , District - Begusarai
4. Ram Narayan Yadav S/O Sri Shatrughan Yadav Resident Of Village - Sakara,
P.S. - Garhpura , District - Begusarai
5. Jai Prakash Yadav S/O Sri Shatrughan Yadav @ Mahto Yadav Resident Of
Village - Sakara , P.S. - Garhpura , District - Begusarai
6. Indra Narayan Yadav S/O Sri Shatrughan Yadav @ Mahto Yadav Resident Of
Village - Sakara , P.S. - Garhpura , District - Begusarai
7. Shatrughan Yadav @ Mahto Yadav S/O Late Nunupat Yadav Resident Of
Village - Sakara , P.S. - Garhpura , District - Begusarai
8. Nitish Kumar S/O Late Shyam Nrayan Yadav Resident Of Village - Sakara , P.S.
- Garhpura , District - Begusarai
9. Krishna Kumar S/O Late Shyam Narayan Yadav Resident Of Village - Sakara ,
P.S. - Garhpura , District - Begusarai
10. Sita Devi W/O Shyam Nrayan Yadav Resident Of Village - Sakara , P.S. -
Garhpura , District - Begusarai
11. Rani Kumari D/O Sajjan Yadav Resident of Village - Sakara, P.S. - Garhpura,
District - Begusarai
12. Janaki Devi W/O Ram Narayan Yadav Resident Of Village - Sakara , P.S. -
Garhpura , District - Begusarai
13. Usha Devi W/O Ram Sakha Yadav Resident Of Village - Sakara, P.S. -
Garhpura , District - Begusarai
14. Usha Devi W/O Sajjan Yadav Resident Of Village - Sakara, P.S. - Garhpura ,
District - Begusarai

.... Opposite Party/s

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CORAM: HONOURABLE MR JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 03-04-2017

Heard learned counsels for the petitioner, opposite
parties No 2 to 14 and Mr J N Thakur for the State.

2 The petitioner being complainant is aggrieved with the
order dated 08.11.2011 passed by the learned Judicial Magistrate, 01st
Class, Begusarai in Complaint Case No 393C of 2011 whereby



cognizance has been taken only against Opposite Party Nos 2 and 3 under Section 323 of Indian Penal Code.

3 It is submitted by the learned counsel for the petitioner that the petitioner filed the Complaint Case No 393C of 2011 against Opposite Party Nos 2 to 14 levelling accusation under Sections 147, 148, 149, 307, 323, 395, 379, 427, 457, 452/34 of IPC but cognizance has been taken only under Section 323 of IPC and that too only against Opposite Party Nos 2 and 3.

4 It is submitted by learned counsel for the opposite parties that the son of the petitioner has hand in the murder of the brother of Opposite Party No 2, namely, Shyam Narain Yadav, who was Additional Public Prosecutor, leading to registration of Cheria Bariyarpur Police Station Case No 20 of 2011 wherein the son of the petitioner Ranjit Yadav has already been convicted and, hence, in retaliation to the case lodged at the behest of opposite parties, present complaint has been filed. The learned Magistrate, perusing the materials on record and examining the complainant on solemn affirmation and other witnesses, has found prima facie case.

5 Considering the rival submissions, this Court is of the view that learned Magistrate, after examining the complainant and witnesses, did not find prima facie case so far as major accusations are concerned. The learned Magistrate failed to appreciate that complainant maliciously filed the complaint in retaliation to the case lodged by opposite Parties against the son of the complainant.



Hence, this Court finds no merit in this application. It is,
accordingly, dismissed.

(Dinesh Kumar Singh, J)

M.E.H./-

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