

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20044 of 2013

Arising Out of PS.Case No. -558 Year- 2012 Thana -NAWADA District- NAWADA

- =====
1. Yogendra Prasad S/O Late Karu Mahto Resident Of Village- Sandohra, P.S.- Nardiganj, District- Nawada
 2. Malti Devi W/O Yogendra Prasad Resident Of Village- Sandohra, P.S.- Nardiganj, District- Nawada
 3. Shivnath Prasad S/O Late Chhotu Prasad Resident Of Village- Murgichak, P.S.- Warisaliganj, District- Nawada
 4. Rajkumari Devi W/O Shivnath Prasad Resident Of Village- Murgichak, P.S.- Warisaliganj, District- Nawada
 5. Ravi Shankar Kumar @ Ravi Shankar Prasad S/O Shivnath Prasad Resident Of Village- Murgichak, P.S.- Warisaliganj, District- Nawada

.... Petitioners

Versus

1. The State Of Bihar
2. Shiyaram Singh S/O Late Ram Lakhan Singh Resident Of Village- Ramnagar, P.S.- Town Nawada, District- Nawada

.... Opposite Party

=====

Appearance :

For the Petitioners	:	Mr. Sheo Kumar Prasad
For the State	:	Mr. Ajay Kumar – I, APP
For the O.P. No. 2	:	Mr. Pankaj Kumar

=====

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 07-11-2017

Heard learned Counsel for the petitioners as well as the learned Counsel for the State as also the learned Counsel appearing on behalf of Opposite party No. 2.

2. The petitioners seek quashing of the cognizance order dated 23.1.2013 passed by the learned CJM Nawada in Nawada (Town) PS Case No. 558 of 2012, thereby taking cognizance of the offence under Sections 452, 379, 427, 504 and 34 of the IPC.

3. The brief fact giving rise to the case is that Siyaram Singh, informant of Nawada (Town) PS Case No. 558 of 2012, who happens to be



Opposite party No. 2 in the instant case, filed a written information to the Police, alleging therein that on 4.1.2012 all the accused persons entered into his house, started abusing him why he had instituted a case under Sections 144 and 107 Cr.P.C. against them. Thereafter they dismantled the water pipe connection with the overhead tank, committed theft of pipe by taking it away and also water of the tank due to breaking of the pipe the water drained down and they abused and assaulted the informant and threatened that they would see that how the informant would live in the house without water.

4. Learned Counsel for the petitioners submits that a false case was lodged against the petitioners on account of land dispute as both sides were on litigating terms. In the title suit decree was passed in favour of the vendor of the accused persons and in the Title Appeal also the judgment of the trial court was affirmed. On earlier occasion the informant had filed a complaint case which was quashed by this Court but again the police case has been filed. So this prosecution is malicious in nature.

5. Contrary to that, learned Counsel appearing on behalf of the State submits that that there is specific allegation against accused persons of committing house trespass by forcibly entering into the house of the informant and also, assaulted, damaged the water supply pipeline and committed theft. The matter was investigated by the police and finding sufficient evidence submitted charge-sheet and thereafter cognizance has been taken.

6. Having considered the rival submissions of both sides and on perusal of record, it appears that there is allegation of house trespass and of assaulting the informant by the accused persons. Merely because there is civil litigation between both sides, on this count alone at this stage the case of the Opposite party No. 2 cannot be disbelieved. It is not the case that ingredient of



the offence is not made out considering the allegations made in the FIR and in its support no evidence was collected during investigation. Hence no ground exists to interfere with the cognizance order.

7. Accordingly this application stands dismissed.

(Arun Kumar, J.)

Snkumar/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.11.2017
Transmission Date	09.11.2017

