

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.48257 of 2014

Arising Out of PS.Case No. -153 Year- 2012 Thana -RANIYATALAB District- PATNA

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1. Sindhu Yadav
2. Sant Prasad @ Budhu Yadav Both S/o Late Yogeshwary Yadav
3. Chandrajeet Yadav S/o Triveni Yadav
4. Sanoj Kumar
5. Manoj Kumar Both S/o Chandrajeet Yadav
All Resident of Village Sardha Chhapra, Police Station Rani Talab, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ram Uday Kumar S/o Yamuna Prasad Resident of Village Sardha Chhapra,
Police Station Rani Talab, District Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajib Ranjan Jha
For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 11-10-2017

This application under Section 482 of the Code of Criminal Procedure has been filed to quash the order dated 25.04.2014 passed by the learned Judicial Magistrate, Danapur, Patna in Rani Talab P.S.Case No. 153 of 2012 whereby and whereunder the learned Magistrate finding prima facie case took cognizance against the petitioners for the offence under Sections 147, 148, 341, 323, 325, 307 and 379 of the Indian Penal Code.

2. Heard the learned counsel for the petitioners and the learned APP for the State.

3. The case has been registered on the basis of fardbeyan of



the Opposite Party No. 2, which was recorded by the police of Pirbahore Police Station Camp P.M.C.H. Patna wherein it has been alleged that on 30.11.2012 at about 6 A.M., all the petitioners armed with deadly weapons intercepted the informant and assaulted him with intention to kill. They snatched an amount of Rs. 10,000/- and a gold chain from his possession.

4. The learned counsel for the petitioners submits that the occurrence allegedly took place on 28.11.2012 and the informant was examined by Doctor on the same day at 8.30 P.M., but the injury report was signed by the concerned Doctor on 01.04.2013. There is bona fide land dispute between the parties for which several litigations are going on. The petitioners have been implicated on account of old enmity. There is absolutely no specific allegation against any of the petitioners. The learned Magistrate has passed the impugned order without applying judicial mind and so, the impugned order is fit to be quashed.

5. The learned APP for the State, on the other hand, opposed the submission.

6. On perusal of F.I.R., impugned order and the documents on record, I find that all the petitioners are named in the F.I.R. and specific allegation is that they all intercepted and assaulted the informant and also took cash amount and gold chain from his



possession. The informant was moved to P.M.C.H, Patna where his fardbeyan was recorded by officer of Pirbahore Police Station. The injury report (Annexure-2) on record shows that the informant sustained fracture of bones (radius and Ulna) besides swelling and tenderness over (right) forearm. The injuries were caused by hard and blunt substance. The defence of the petitioners that a title suit is pending for land dispute and some criminal cases have been lodged on account of enmity cannot be taken into consideration at the time of passing order on the matter of cognizance. The petitioners will have opportunity to raise their points at the time of trial.

7. In view of discussions made above, I do not find any merit in this application. This application is devoid of merit and the same is accordingly dismissed.

(Sanjay Kumar, J)

ajay gupta/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.10.2017
Transmission Date	18.10.2017

