

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46192 of 2015

Arising Out of PS.Case No. -914 Year- 2010 Thana -BEGUSARAI COMPLAINT CSAE District-
BEGUSARAI

- =====
1. Veerdev Sah
 2. Amarjeet Sah @ Amarjeet Kumar, Both sons of Krishnandan Sah
 3. Krishnandan Sah, son of Late Ghuran Sah
 4. Prema Devi, wife of Krishnandan Sah
 5. Kranti Devi, wife of Veerdev Sah, All residents of Laloo Nagar, P.S. Muffasil, District Begusarai.
 6. Wakil Sah, son of Aajo Sah, Resident of Nagdah, P.S. Town, District Begusarai
- Petitioners

Versus

1. The State of Bihar
 2. Sanjeet Kumar, son of Wakil Sah, resident of Laloo Nagar, P.S. Muffasil, District Begusarai
- Opposite Parties

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Appearance :

For the Petitioners : M/S Sandeep Kumar & Ajit Kumar, Adv.
For the Opposite Parties : Mr. Shyam Kumar Singh, APP 138

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 16-02-2017

Heard the learned counsel for the petitioners and the State.

2. This is an application for quashing the order, dated 26.02.2015, passed by the Sessions Judge, Begusarai, in Criminal Revision No. 496 of 2014.

3. The petitioners are accused in Complaint Case No. 914 C of 2010 for alleged offences under Sections 147, 148, 341, 323, 342, 448, 452, 504, 379, 380 and 354 of the Indian Penal Code as well as under Sections 3 and 4 of the Prevention of Witch Craft Act allegedly committed on 18.04.2010.

4. The petitioners challenged the order of refusal to discharge, dated 08.09.2014 before the learned Sessions Judge, Begusarai, in Criminal Revision No. 496 of 2014, which was dismissed by the impugned order.

5. According to the complaint petition, the petitioners



armed with lathi etc. entered into the house of the informant and started searching for the mother of the informant alleging that she is a witch. Further, allegation is that the accused persons committed abuse and assault to the mother of the informant by dragging her outside the house. Thereafter, they pour kerosene oil in her mouth and committed theft of television, attaché, clothes, ornaments etc.

6. The learned trial Court refused the prayer for discharge, considering the fact that there is sufficient material on record.

7. The learned Sessions Judge affirmed the order for the reason that even suspicion based on material on record as held in different referred pronouncements is sufficient to refuse the prayer for discharge.

8. Submission of the petitioners is that the present case is counter blast to Complaint Case No. 911 C of 2010 filed in the same Court of learned Chief Judicial Magistrate, Begusarai, for the occurrence of the same date, dated 18.04.2010, by petitioner, Prema Devi, against the complainant of this case and others with identical nature of commission of theft, assault etc. His, further, submission is that the allegation is general and omni bus and not specific against any of the accused. More over, for the reason with earlier case is of the petitioners, the present complaint case suffers from mala fides.

9. Since, for the occurrence of the same date both sides have lodged case against each other, it is natural that one case would be earlier to another case. The complaint petition and the statement of the witnesses examined before the charge discloses prima facie offence against the petitioners.

10. Hence, impugned orders can not be interfered with



only for the reason that the subsequent complaint is counter blast to the earlier case. More over, the subsequent complaint can not be alleged as suffering from malafide unless some strong motive for false implication is there.

11. Therefore, I do not find any merit in this application. Accordingly, it stands **dismissed**.

12. This order shall not prejudice the trial.

(Birendra Kumar, J)

SA/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	23.02.2017
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