

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25950 of 2012

Arising Out of PS.Case No. -3238 Year- 2009 Thana -null District- KATIHAR

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1. Satish Singh S/O Late Lakshmeshwar Singh Resident Of Village- Guru Bazar, P.S.- Barari, District- Katihar

2. Yaspal Singh S/O Satish Singh Resident Of Village- Guru Bazar, P.S.- Barari, District- Katihar

3. Bittu Singh S/O Gurmit Singh Resident Of Village- Guru Bazar, P.S.- Barari, District- Katihar

4. Paramjit Kaur W/O Gurmit Singh Resident Of Village- Guru Bazar, P.S.- Barari, District- Katihar

.... Petitioners

Versus

1. The State Of Bihar

2. Ramadhar Yadav S/O Shiv Pujan Yadav Resident Of Village- Guru Bazar, P.S.- Barari, District- Katihar

.... Opposite Parties

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Appearance :

For the Petitioners	:	Mr. Bhola Prasad, Advocate
		Mr. Aditya Abshisek, Advocate
For the Informant	:	Mr. Rishikesh Ojha, Advocate
For the State	:	Mr. Ajay Kumar –I, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 26-04-2017

This petition for quashing has been preferred by the petitioners against the order dated 11.6.2012 passed in Complaint Case No.3238 of 2009 by learned S.D.J.M., Katihar whereby he has dismissed the petition filed by the petitioners under Section 245 of the Code of Criminal Procedure to discharge from this case.

2. A brief fact of the case is that opposite party no.2, Ramadhar Yadav filed a Complaint Case No.3238 of 2009 against accused persons, who are petitioners before this Court alleging therein



that the accused persons after entering into conspiracy lodged a false Complaint Case No.2734 of 2008 against opposite party no.2 and also adduced false statement before the Court, subsequently also filed several false cases against the opposite party no.2. The accused persons lodged several false cases to force the complainant to yield to their demand or Rangdari on the strength of a forged batwaranama. So repeatedly false cases are being filed by accused persons in order to extort money and they have created a forged Batwaranama against which the complainant has filed a Title Suit No.41 of 2001 against Satish Singh one of the accused. So the accused persons are giving false statement before the Court and thus, putting the accused in fear of death. The complainant was examined on S.A. and subsequently, three witnesses were examined at the enquiry stage.

3. Learned counsel submitted that the allegations levelled against the complainant do not make out a case against the petitioners under Sections 506 and 385 of I.P.C. It is only alleged that false cases are being instituted by the accused persons and a forged Batwaranama was prepared but the fact remains that there is land dispute between both sides and a title suit is also pending as mentioned in the complaint. The averments made in the complaint or even in the statement of witnesses at the enquiry stage do not make out any ingredient of extortion. There is no allegation against any



accused persons putting the complainant in fear of any injury or dishonestly inducing to deliver any property or valuable security. Moreover, no case of criminal intimidation is also made out, so ingredient of both offences are wanting in the complaint. Moreover, there is malicious prosecution to put pressure to petitioner yield to their claim made in the Title Suit No.41 of 2001.

4. Learned A.P.P. submitted that there is no illegality in the impugned order.

5. Having considered rival submissions and on perusal of record, I find that only allegation in the complaint is that accused persons have lodged some criminal cases against the opposite party no.2 and of bringing in existence a forged batwaranama for which a Title Suit No.41 of 2001 is pending in the Civil Court so that matter is still subjudice matter before the Civil Court. The entire allegation levelled in the present complaint case do not make out any case of putting the complainant in fear of injury in order to commit extortion or of criminal intimidation. The petition of discharge filed by petitioner was not maintainable in summon triable case but since no prima facie case against accused persons are made out under Section 385 and 506 of the I.P.C. rather it appears a malicious prosecution so continuation of criminal proceeding in this case would be abuse of the process of the Court so further criminal proceeding in the complaint



case is set aside to secure the ends of justice.

6. In the result, this petition is allowed.

(Arun Kumar, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	
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