

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24439 of 2014

Arising Out of PS.Case No. -104 Year- 2013 Thana -SULTANGANJ District- BHAGALPUR

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1. Lakhan Lal Sah S/o Late Madan Lal Sah
 2. Sanjeet Sah
 3. Ranjeet Sah both sons of Lakhan Lal Sah All are R/o Village - Awjuganj, P.S. Sultanganj, District - Bhagalpur

.... Petitioners

Versus

1. The State of Bihar
2. Deep Narayan Sah S/O Rupam Sah R/o Village - Awjuganj, P.S. Sultanganj, District - Bhagalpur

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Tarun Kumar Sinha, Advocate
For the Opposite Parties : Mr. Jitendra Kr.Ray 1, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

3 28-06-2017 Heard both sides.

2. This is an application filed under Section 482 of the Cr.P.C. for quashing the FIR of Sultanganj P.S.Case No.104 of 2013.

3. The facts in brief is that the Opposite Party No.2 submitted a written report on 19.06.2013 alleging inter-alia that on 25.10.2012 at 7.30 A.M. these petitioners assaulted and petitioner no.2 snatched Rs.1200/- from his possession. He visited at police station to lodge the case but the police without registering any case sent him to hospital for treatment. The cause of occurrence has been alleged that some dispute had arisen for cutting a Neem tree.



4. The learned counsel or the petitioners submits that the cause of occurrence is land dispute between the parties. The petitioners had filed a Title Suit no.15 of 1997 against the informant for declaration of tile and interest over the suit land and also for declaration that the defendant second party had not acquired any right title and interest on the strength of sale deed executed by defendant nos.1 and 2. The said title suit was decided in favour of the petitioners vide judgment dated 11.12.2000 and the defendants of said suit were injuncted from causing interference in possession of the petitioners. It was also submitted that one Kailash Prasad Gupta has filed a CWJC No.7923 of 2011 against the OP no.2 and his son. The OP No.2 on the date of occurrence went over his land which situates adjoining to the house of the petitioners. They assaulted the petitioners and his son. The petitioners and the son were treated at hospital on the same day. The petitioners went to the police station to lodge the case but the police did not entertain the complaint and thereafter he filed complaint case no.2447 of 2012 on 31.10.2012. The Magistrate after due enquiry took cognizance of offence against OP no.2 on 14.03.2014. The OP no.2 having come to know about filing of the complaint case, lodged FIR to SHO of Sultanganj P.S. on 19.06.2013 alleging inter-alia that these petitioners allegedly



assaulted him on 25.10.2012. The said case was lodged after eight months of the alleged occurrence. The said case has been filed as counter-blast to the complaint case of these petitioners only to put pressure on the petitioners to compromise the case. The impugned order has been passed without considering the material on record and is not sustainable in the eye of law. The learned lawyer prays to quash the FIR.

5. The learned APP opposed the submissions.

6. On perusal of the materials available on record, I find that there is land dispute between the parties. The petitioners had filed a complaint case no.2447 of 2012 against OP no.2 and his son on 31.10.2012 for the occurrence which took place on 25.10.2012. The injury report annexed as annexures-3 series show that the petitioners were treated at referral hospital Sultanganj on the same day. In the said case cognizance has been taken and OP no.2 and his son has been summoned. After a long gap of eight months, the OP no.2 lodged a police case against the petitioners. The lodging of FIR with police after eight months appears to be a reaction against the complaint case which amounts to abuse of the process of the court. There is also a land dispute between the parties and the title suit has been decided in favour of the petitioners. The OP no.2 has been restrained from going over the



said land. The OP no.2 in spite personal service of notice did not appear to controvert assertion of the petitioners and so criminal prosecution of the petitioners would amount abuse of process of the Court.

7. For the reasons stated above, the First Information Report registered against these petitioners is quashed and criminal miscellaneous application is allowed.

(Sanjay Kumar, J)

B.Kr./-

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