

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.2518 of 2014

Arising Out of PS.Case No. -647 Year- 2013 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Asarphi Rai Son Of Dhukan Rai Resident Of Village- Rupaspur, P.S. Rupaspur, District- Patna
 2. Bari Rai @ Barfi Rai Son Of Dhukan Rai Resident Of Village- Rupaspur, P.S. Rupaspur, District- Patna
 3. Bakil Rai @ Wokil Rai Son Of Dhukan Rai Resident Of Village- Rupaspur, P.S. Rupaspur, District- Patna
 4. Kishundeo Rai @ Krishndeo Rai Son Of Dhukan Rai Resident Of Village- Rupaspur, P.S. Rupaspur, District- Patna
 5. Mantu Kumar Son Of Asarphi Rai Resident Of Village- Rupaspur, P.S. Rupaspur, District- Patna
 6. Pintu Kumar Son Of Asarphi Rai Resident Of Village- Rupaspur, P.S. Rupaspur, District- Patna
 7. Nobhi Kumar @ Noomi Kumar Son Of Asarphi Rai Resident Of Village- Rupaspur, P.S. Rupaspur, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Sitapati Devi Wife Of Naga Paswan Resident Of Village+ Rupaspur, District- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Singh, Adv.
For the Opposite Party/s : Mr. Ram Shankar Das, Spl. APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 03-07-2017

Head Mr. Rajesh Singh learned counsel for the petitioners, learned counsel for the complainant and the learned A.P.P.

2. The petitioners filed this petition under Section 482 of the Code of Criminal Procedure for quashing the order dated 23.10.2013 passed in Complaint Case No. 647(C)/2013 whereby the learned Judicial Magistrate, Danapur, Patna found prima facie case under Sections 147, 148, 149, 323, 380, 452, 506 of the Indian Penal



code and sections 3(x)(xi) of the S.C./S.T. (Prevention of Atrocities) Act to proceed against the petitioners. The complainant Opposite Party no. 2 filed complaint case alleging therein that she got her house on a piece of land bearing Khata No. 76, Plot No. 941 Area 1 1/8 decimal, but the accused persons came to her house while she was constructing wall and assaulted the complainant and abused her by naming her cast and took away different article worth Rs. 60,000/- from her house. The complainant was examined on the same and the complainant also examined her witnesses. Learned Judicial Magistrate, Danapur, Patna from the facts collected during the course of enquiry found Prima facie case to proceed against the accused persons vide order dated 10.12.2012.

3. Mr. Rajesh Singh learned counsel for the petitioner submits that there is bona fide land dispute between the parties. The petitioners got the land by the order of the Court. There is series of litigation. The witnesses are the persons against whom the petitioners are on inimical term and the petitioners have lodged F.I.R. against them. Therefore, the order is sheer abuse of process of court and on such facts the proceedings should not have been allowed to continue.

4. On the other hand, learned counsel for the Opposite Party no. 2 and the learned A.P.P. submits that from perusal of the complaint petition itself, it would appear that the judgment of the title suit went in favour of the complainant. The petitioners are went upon



to dis-posses the complainant and that is why they committed the occurrence. There is no illegality in the order impugned.

5. Learned Judicial Magistrate, Danapur, Patna while passing order under Section 204 Cr. P.C with regard to finding of the prima facie case, the Magistrate has only to look on the materials available on record and at this stage the defense of the accused cannot be taken into consideration, as the accused had no locus.

6. Having considered the facts aforesaid, I find no illegality in the aforesaid order, as the learned Judicial Magistrate, Danapur, Patna on perusal of the materials collected during enquiry found prima facie case to proceed against the accused under Sections 147, 148, 149, 323, 380, 452, 506 of the Indian Penal code and sections 3(x)(xi) of the S.C./S.T. (Prevention of Atrocities) Act and thus, the quashing petition is dismissed, as devoid of any merit.

(Prabhat Kumar Jha, J.)

Vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
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