

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41851 of 2014

Arising Out of P.S.Case No. -2429 Year- 2013 Thana -BEGUSARAI COMPLAINT CSAE District-
BEGUSARAI

- =====
1. Mrityunjay Kumar Son of Ram Babu Singh
 2. Shatrudhan Kumar @ Shatrunjay Kumar Son of Ram Babu Singh
 3. Ram Babu Singh Son of Late Prayag Singh All are Resident of Village-
Kauraiy, P.S. - Garhpura District- Begusarai

.... Petitioners

Versus

1. The State of Bihar
2. Khanhaiya Kumar Son of Manibhushan Singh Resident of Village- Kauraiya,
P.S- Garhpura, District- Begusarai

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Indrajit Kumar, Advocate
For the Opposite Parties : Mr. Tapeswar Sharma, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 29-08-2017

This criminal miscellaneous application under Section 482 of the Cr.P.C. has been filed to quash the order dated 16.07.2014 passed by learned CJM, Begusarai in Complaint Case No.2429C of 2013 whereby and whereunder the learned CJM, Begusarai finding prima-facie case for the offence under Sections 323, 341, 350, 452 and 383 of the IPC ordered for issuance of summons against the petitioners.

2. Heard and perused the record.

3. It has been submitted that the present complaint case has been lodged by the Opposite Party No.2 as counter blast to the case of



petitioners. The petitioner no.1 was brutally assaulted by Opposite Party No.2 and his family members. The petitioner no.1 was admitted at Sadar Hospital, Begusarai and in course of treatment his fardbeyan was recorded on the basis of which Garhpura P.S.Case No.112 of 2013 was registered against the present petitioners and others for the offence under Sections 147, 341, 323, 325, 379, 504 and 506 of the IPC. There are contradictions in the statement of complainant on solemn affirmation and other witnesses. There is neither any eye witnesses to the occurrence nor any witness has been examined. The witnesses examined in this case are of different places. The learned Magistrate has taken cognizance without applying judicial mind and so the impugned order is fit to be quashed.

4. Learned APP opposed the submission.

5. On perusal of the complaint petition, impugned order and the annexures on record, I find that all the petitioners are named in the complaint petition with specific allegation that they all came at the house of complainant Opposite Party No.2. They abused the complainant and on protest they assaulted the complainant. At the time of enquiry, witnesses have supported the allegation as made in the complaint petition. The learned Magistrate finding prima-facie case has summoned the petitioner as stated above. The defence of the petitioners that the present case has been lodged only to counter the



FIR of petitioner no.1 cannot be taken into consideration at the time of passing order on cognizance and in this view of the matter, I do not find any merit in this criminal miscellaneous application.

6. This criminal miscellaneous application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	31.08.2017
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