

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36068 of 2014

Arising Out of Complaint Case No. -433 (c) Year- 2013 Thana -Bramhapur District- BUXAR

- =====
1. Ram Singasan Singh
 2. Ramdeo Singh
 3. Indradeo Singh

All are sons of Late Ram Govind Singh

4. Ajay Singh
5. Vijay Singh @ Vijay Kumar Singh
6. Munna Singh

All are sons of Shri Ram Singasan Singh

7. Nathuni Yadav S/o Late Ranglal Yadav
8. Rameshwar Sah S/o Late kapildeo Sah

All are resident of Village- Chandrapura, P.S.- Bramhapur, District- Buxar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Kedar Prasad S/o Late Kapildeo Prasad, resident of village-Chandrapura, P.S.-
Bramhapur, District-Buxar.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Anil Kumar, Advocate

For the Opposite Party/s : Mr. Kumar Ranjit Ranjan, APP

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 04-09-2017

1. Heard both sides and perused the record.

2. This criminal miscellaneous application under section

482 of the Code of Criminal Procedure has been filed to quash the order dated 11.09.2013 passed by learned Judicial Magistrate 1st Class, Buxar in Complaint Case No. 433(C)/2013 whereby and whereunder the learned Magistrate finding *prima facie* case for the offences under sections 323, 379/34 of the Indian Penal Code, ordered for issuance of summons against the petitioners. They have further prayed to quash the order dated 28.01.2014 passed by learned Sessions Judge, Buxar in Criminal Revision No. 155 of 2013 whereby and whereunder he refused



to interfere with the cognizance order passed by learned Magistrate.

3. The opposite party no. 2 filed a complaint case on the file of learned Chief Judicial Magistrate, Buxar alleging therein that on the day of occurrence, these petitioners along with 4-5 unknown persons variously armed with *Lathi*, *Bhala* and dangerous weapons, reached over his land and harvested the wheat crops from his land of plot no. 208. On the protest of complainant, they assaulted him. The complainant further came to know that the accused persons have got some document brought into existence to grab his land. The complainant and his witnesses supported the allegation and the learned Magistrate finding *prima facie* case, summoned the petitioners.

4. The learned counsel for the petitioners submits that petitioner nos. 1 to 3 are brothers and petitioner nos. 4 to 6 are sons of petitioner no. 1. The prosecution case is absurd and improbable. The petitioner no. 1 is aged about 90 years and he has been roped in this case along with his entire family members. The petitioners have rightly harvested the crops from the land in question which was acquired by them and so, no offence under section 379/34 of the Indian Penal Code, is made out. The learned Magistrate without applying judicial mind, has passed the order in mechanical manner and so, the cognizance order is fit to be quashed.

5. The learned Additional Public Prosecutor opposed the submission.



6. On perusal of complaint petition and statement of witnesses examined at the time of enquiry, I find that there is specific allegation that all the accused persons variously armed with *Lathi*, *Bhala*, etc. went over the land of complainant and forcibly cut wheat crops from his land. The complainant opposed whereupon they assaulted him. The learned Magistrate finding *prima facie* case, has rightly taken cognizance under sections 323/379/34 of the Indian Penal Code.

7. In view of above facts, I do not find any illegality in the impugned order requiring any interference under inherent jurisdiction of this Court under section 482 of the Code of Criminal Procedure.

8. Accordingly, this miscellaneous application is dismissed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	6.9.2017
Transmission Date	6.9.2017

