

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32632 of 2014

Arising Out of PS.Case No. -1925 Year- 2013 Thana -BEGUSARAI COMPLAINT CSAE District-
BEGUSARAI

- =====
1. Santosh Singh Son of Ram Bahadur Singh
 2. Vickky Kumar Singh Son of Hari Charan Singh Both are r/o Village Mohanpur, P.S. dandari, District Begusarai

.... Petitioner/s

Versus

1. The State of Bihar
2. Brindeo Singh Son of Late Ramtaur Singh R/o Village Mohanpur, P.s. Dandari, District Begusarai

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Hare Krishna Prasad, Advocate

For the State : Mr. P.K.Chaurasia(App)

For the Opposite Party no.2 : Mr. Ravindra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

4 25-08-2017 Heard the parties.

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 13.05.2014 passed by learned Judicial Magistrate-cum-Additional Munsif, Begusarai, in connection with Complaint Case no. 1925 C of 2013 by which cognizance has been taken against the petitioners and others under Sections 341, 323, 379 and 506 r/w 34 of the Indian Penal Code.

Briefly stated the fact of the Complaint Case made out by the complainant is that on 27.08.2013 he was going to market to purchase some essential articles. As soon as they reached out of



village near 'Bandh' all the accused persons including petitioners surrounded them with fire arms, beaten up and snatched Rs.25,000/-, wrist watch and bicycle from the complainant and after committing the offence they fled away. The complainant was threatened by the accused persons that if he would file any complaint before the police, he would be killed.

The complainant registered a case being Complaint Case No. 1925C of 2013 in the court of learned Chief Judicial Magistrate, Begusarai. The complainant was examined on Solemn Affirmation by the court below and in support of the complaint case three witnesses were also examined on behalf of the complainant. On the basis of examination of complainant on Solemn Affirmation and three witnesses and other materials available on record, the court below found prima facie case made out against the accused, took cognizance of the offence under Sections 341, 323, 379 and 506 r/w 34 of the Indian Penal Code and issued summons to them for their appearance. The case of the petitioners is that they are innocents and have falsely been implicated in this case. It is the counter case of Dandari P. S. Case no. 19 of 2013 in which chargesheet has also been submitted and all the accused persons made in the complaint case are either informant's family or the family of the witnesses. At the stage of



taking cognizance the court below has to form a prima facie case if any offence is made out against the accused persons. The defence of the accused petitioners cannot be examined at that stage. Any defence of the accused petitioners can be raised only at a subsequent stage and not at the initial stage of the prosecution. The power of the High Court to interfere in such matter is only to a limited extent. The High Court cannot substitute its view for the summoning order passed by the Magistrate. The High Court cannot appreciate the evidence or its truthfulness or its sufficiency as it is the function of the trial court.

After going through the order impugned, I do not find any error, illegality or infirmity in the order passed by the court below requiring any interference under Section 482 of the Code of Criminal Procedure. However, the petitioner may raise the issues as raised before this Court as well as other issues available to them as permissible in law at the time of framing of charge.

Petition stands dismissed.

(S. Kumar, J)

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