

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29366 of 2014

Arising Out of PS.Case No. -2395 Year- 2013 Thana -WEST CHAMPARAN COMPLAINT
District- WESTCHAMPARAN(BETTIAH)

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1. Raj Kumar Chaudhary S/o Late Nand Lal Chaudhary
 2. Rajiv Kumar Chaudhary S/o Raj Kumar Chaudhary
 3. Dabloo S/o Raj Kumar Chaudhary
 4. Pinku S/o Raj Kumar Chaudhary Resident of Mohalla Belbag, P.S. Bettiah Muffasil, District West Champaran.

.... Petitioners

Versus

1. The State of Bihar.
2. Kamal Deo Thakur S/o Late Braj Bhushan Thakur Resident of Mohalla Belbag, P.S. Bettiah Muffasil, District West Champaran.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Radha Mohan Singh

For the Opposite Party/s : Mr. Suresh Pd.Singh(App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

4 28-11-2017 Heard learned Counsel for the petitioners as well as the learned Counsel for the State and the learned Counsel appearing on behalf of Opposite party No. 2.

The petitioners seek quashing of the cognizance order dated 2.5.2014 passed by the Judicial Magistrate, 1st Class, Bettiah in connection with Complaint Case No. 2395(C) of 2013, thereby taking cognizance of the offence under Sections 379, 427 and 504 of the IPC.

The brief fact giving rise to the case is that complaint was filed by O.P. No. 2 alleging therein that in the front of the courtyard of his house all the accused persons entered into and



plucked promegranates two hundred in number causing loss of Rs. 1000/- It is also alleged that earlier also the accused persons caused damage to the complainant for which case is going on.

Learned Counsel appearing on behalf of the petitioners submits that the complainant is a practicing advocate in Bettiah Civil Court and the accused persons are living in the neighbourhood of the complainant, there is land dispute between the two and so he is in habit of filing false and frivolous complainant cases time and again. He has filed T.S. No. 203 of 2013 in which petitioner Nos. 1 and 2 are defendants. So in order to put pressure not to contest the Title Suit, repeatedly false cases are being lodged with malicious intention. On earlier occasion a complaint case lodged by the complainant relating to committing theft of mangoes was set aside by this Court by order dated 24.7.2014 passed in Cr. Misc. No. 534 of 2014 and entire criminal proceeding instituted by complainant by order dated 31.3.2014 passed in Cr. Misc. No. 54 of 2014 in all complaint the allegations are almost of similar nature.

Contrary to that, learned Counsel appearing on behalf of O.P. No. 2 submits that the petitioners have unauthorisedly taken possession of land of Bettiah Raj, and living by the side of the complainant, have also encroached upon his land and admits that title suit is pending between the two sides, but submitted that the accused persons are repeatedly committing nuisance and committing theft of fruits, so this complainant has been filed and there is no ground for



interfering with the cognizance order.

Having considered the rival submissions and on perusal of record, the Court finds that both sides are next door neighbours and dispute exists between them relating to a piece of land between both sides for which a title suit is also subjudice and it is also apparent that repeatedly complaint cases of theft of fruits are being lodged intermittently by the complainant; as in the present case theft of plucking promegranates from the trees. With respect to the said land a title suit is also pending between both sides. So apparently the present complaint appears malicious in nature.

Hence entire criminal proceeding inclusive of the cognizance order dated 2.5.2014 passed by the Judicial Magistrate, 1st Class, Bettiah in connection with Complaint Case No. 2395(C) of 2013 stands quashed.

The application stands allowed.

(Arun Kumar, J.)

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