

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.24858 of 2014

Arising Out of PS.Case No. -199 Year- 2011 Thana -BRAHMPURA District- MUZAFFARPUR

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1. Akhtar Hussain

2. Anwar Hussain

Both are sons of Late Fakir Mohammad

3. Abdul Kalam @ Abdul Kalam son of Akhtar Hussain,

All are resident of Mohalla- Mehendi Fazal Chowk, P.S.- Brahmpura, District- Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar.

2. Amjad Hussain son of Late Fakir Mohammad, resident of mohalla- Mehendi Fazal Chowk, P.S.- Brahmpura, District- Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Wasi Ahmed Khan, Advocate

For the Opposite Party/s : Mr. P.K. Chaurasia, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 22-09-2017

1. This criminal miscellaneous application under section 482 of the Code of Criminal Procedure has been filed to quash the order dated 18.01.2014 passed by the learned Chief Judicial Magistrate, Muzaffarpur in Brahmpura Police Station Case No. 199 of 2011 (G.R. No. 4170 of 2011 and T.R. No. 4012 of 2014) whereby and whereunder the learned Magistrate finding *prima facie* case against the petitioners, took cognizance for the offences under sections 448, 380 and 504/34 of the Indian Penal Code.

2. Heard the parties and perused the record.

3. The petitioner nos. 1 and 2 are full brothers of the



informant (opposite party no. 2). The petitioner no. 3 is son of petitioner no. 1.

4. The opposite party no. 2 filed an FIR alleging therein that he was a Deputy General Manager (Electrical) in O.N.G.C., posted at Assam and he used to visit his ancestral home regularly. He has further stated that on 04.11.2011, he came from Assam and stayed in his house for five days. During his stay, his full brother and his family members in absence of informant unlocked his home and stealthily stolen his articles and on query, they abused and ousted him from their house. On the basis of said written report, a Police case, vide Brahmpura Police Station Case No. 199 of 2011, was registered and after investigation, the Police submitted charge sheet against the petitioners for the offences under sections 448, 380 and 504/34 of the Indian Penal Code. The learned Magistrate after perusing the FIR and materials in case diary, took cognizance of offence against the petitioners.

5. On perusal of FIR and impugned order, I find that there is specific allegation of unlocking the room of informant and stealthily committing theft of articles. I do not find any illegality in the impugned order requiring any interference under the inherent jurisdiction of this Court under section 482 of the Code of Criminal Procedure.



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

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	04.10.2017
Transmission Date	04.10.2017

