

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6432 of 2015

Arising Out of PS.Case No. -302 Year- 2013 Thana -ROHTAS COMPLAINT CASE District -
SASARAM (ROHTAS)

- =====
1. Nirmal Singh, Son of Khedan Singh
 2. Birendra Singh
 3. Sanjay Singh
 4. Mantu Singh
 5. Guddu Singh

All sons are Nirmal Singh

All residents of village - Jalwaiya P.S. Kargahar (Badahari), District -
Rohtas

.... Petitioner/s

Versus

1. The State of Bihar
2. Dhananjay Singh, son of Late Fate Singh, resident of village - Jalwaiya
P.S. Kargahar (Badahari), District - Rohtas

... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raghunandan Kumar Singh, Advocate.

For the Opposite Party/s: Mr. Ajay Kumar No. 1, APP.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

2 01-12-2017 Heard learned counsel for th petitioners and learned
counsel for the State.

2. Petitioners seek quashing of the cognizance order
dated 20.12.2013 passed by the learned Judicial Magistrate, 1st
Class, Rohtas at Sasaram in Complaint Case No. 302 of 2013
thereby taking cognizance of offence under Sections 147 and 323
of the Indian Penal Code.

3. Allegation, in brief, as narrated in the complaint is
that accused persons forcibly attempted to take possession of the
land of the complainant. It is alleged that when he was sitting in
front of his house after being released on bail in a case, in the



meanwhile accused persons turned up there armed with weapons, entered inside the house and assaulted with fist and slaps and also committed theft.

4. Learned counsel for the petitioners submits that both sides are neighbours and prior to institution of the present complaint, the petitioners' side had instituted a police case against the complainant under Sections 323, 341, 379, 447 and 504/34 of the Indian Penal code, so complainant filed this malicious prosecution.

5. Contrary to this, learned counsel for the State submits that allegations do disclose offence so there is no ground for interference in the cognizance order.

6. Having considered the rival submissions and on perusal of record, it appears that both sides are neighbours and on litigating terms. Malicious prosecution means instituting and pursuing a criminal or civil action without a probable cause. Merely because there is a case and counter case in between both sides, so it cannot be held the present case malicious prosecution. This application stands dismissed.

(Arun Kumar, J)

Sujit/-

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