

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.31910 of 2016

Arising Out of PS.Case No. -150 Year- 2015 Thana -DESARI District- VAISHALI(HAJIPUR)

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1. Balwant Rai son of Braj Kishore Rai
2. Ram Babu Rai son of Late Rameshwar Rai
3. Pankaj Rai @ Pankaj Kumar son of Hari Lal Rai
4. Papu Rai son of Hari Lal Rai
5. Hari Lal Rai son of Budhu Rai All resident of Village Taiab Pur, P.S. - Desari,
District -Vaishali

.... Petitioner/s

Versus

1. The State of Bihar
2. Deo Bali Rai son of Late Lakshman Rai resident of village Taiab Pur P.S.-
Desari, District Vaishali

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nand Kishore Prasad Sinha

For the Opposite Party/s : Mr. Matloob Rab

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

C.A.V. JUDGMENT

Date: 20-06-2017

Heard learned counsel for the parties.

Petitioners, by means of this application under section 482 of the Code of Criminal Procedure, have invoked the inherent jurisdiction of this Court with prayer to quash the order dated 25.04.2016, passed by Aditya Pandey, Judicial Magistrate, 1st Class, Vaishali at Hajipur, in G.R. arising out of Desari P.S. Case No. 150 of 2015, whereby cognizance has been taken against the petitioners for the offences under section 147, 148, 149, 323, 324, 307, 447 and 504 of the Indian Penal Code.

The contention of the learned counsel for the petitioner



is that there is case and counter case between the parties with regard to land dispute (Annexure-2 &3). No offence against the petitioner is disclosed and the present prosecution has been instituted with mala fide intention for the purposes of harassment. It is further submitted that opposite party no.2 also filed a complaint case against the petitioners and others with same set of facts. Learned counsel as such prays for quashing of the order taking cognizance.

Learned counsel appearing for the State opposes the application by contending that there are allegations against the petitioner and no ground for quashing the order taking cognizance is made out.

From perusal of the materials on record and looking into the facts of the case at this stage, it cannot be said that no offence is made out against the petitioner. All the submissions made at bar relates to the disputed question of facts and defence of petitioner, which cannot be adjudicated upon by this Court in exercise of power conferred under section 482 Cr. P.C. The materials which have been brought before this Court were not before the Magistrate. Only a prima facie satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required. Moreover, the petitioner has got a right of discharge through a proper application for the said purpose and he is free to take all the



submissions in the said discharge application before the trial Court.

The prayer for quashing the order taking cognizance is refused.

The application accordingly stands dismissed.

(Arvind Srivastava, J)

Manish/-

AFR/NAFR	NAFR
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