

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35216 of 2013

Arising Out of PS.Case No. -957 Year- 2012 Thana -KATIHAR COMPLAINT CASE District-
KATIHAR

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Phul Kumar Thakur & Ors

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jibendra Mishra

For the Opposite Party/s : Mr. Satyavrat Verma(App)

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 13-01-2017 Heard the parties.

By way of the present application preferred under Section 482 of the Code of Criminal Procedure, the petitioners seek quashing of the order, dated 15.03.2013 passed by Mr. Deepak Kumar, learned Judicial Magistrate-1st Class, Katihar in Complaint Case No. CA- 957/2012, for the offences punishable under Sections 147, 323, 379, 149, 427 and 504 of the Indian Penal Code.

It has been submitted on behalf of the petitioners that from perusal of the complaint petition as well as materials collected during the course of enquiry under Section 202 of the Cr.P.C., it will clearly appear that there is no allegation that can be attributed to the petitioners. Moreover, prior to filing of the present case, the petitioners have already filed a criminal case being Kadwa P.S. Case No. 173/2009 against the complainant and the complaint filed in the present case is nothing but a counterblast



of the case filed by the petitioners. It has further been submitted that in the backdrop of existing land dispute, the present frivolous case has been lodged against the petitioners and as such it is a clear case of malicious and malafide proceeding against the petitioners to settle grudge as well as to harass and put pressure on the petitioners as such it is not sustainable in the eye of law.

Learned Additional Public Prosecutor for the State opposed the application on the ground that the facts stated in the complaint as well as the materials collected during the course of enquiry clearly make out a case against the petitioners under Section 323 and 379 of the Indian Penal Code and hence the application filed by the petitioners has no merit and deserves to be dismissed.

Having heard both sides from perusal of the record, it appears that the petitioners are named in the complaint petition and there are allegations against the petitioners in the complaint petition. It further appears from perusal of the materials collected during the course of enquiry that there are evidence available on record to show a case under Section 323 & 379 of the Indian Penal Code. As such when there is sufficient materials available on the record showing a case under Section 323 and 379 of the I.P.C, the same cannot be thrown out only on the ground that the petitioners has already filed a criminal case against the complainant.

I am not inclined to interfere with the order, dated dated



15.03.2013 and hence the application filed by the petitioners are hereby dismissed with liberty to raise all these grievances at an appropriate stage.

This application is, accordingly, dismissed.

(Vinod Kumar Sinha, J)

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