

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29144 of 2011

Arising Out of Complaint.Case No. -1292 c Year- 2005 District- BEGUSARAI

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1. Binod Prasad @ Binod Sah

2. Kumod Prasad @ Kumod Sah

3. Prabhakar Sah @ Chote Sah

All are sons of Late Laxmi Sah, Permanent resident of Village Chiranjivpur,
P.S. Bachhwara, District Begusarai

.... Petitioners

Versus

1. The State of Bihar

2. Surendra Rai, son of Late Siya Sharan Ray, resident of Mohalla Shivajee
Nagar, Bishnupur, P.S. Begusarai, District Begusarai

.... Opposite Parties

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Appearance :

For the Petitioners	:	Mr. Narendra Kumar Dr. Chandra Shekhar Azad, Advocates.
For the State	:	Mr. Rajendra Prasad Nat, APP
For the OP No. 2	:	Mr. N.C. Verma Mr. Lakshmikant Tiwary, Mr. Natraj Verma, Advocates.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 21-04-2017

Heard learned counsel for the petitioners, learned counsel
for the opposite party no. 2 and learned APP for the State.

2. The present petition has been filed for quashing the
order dated 30.08.2006 taking cognizance against the petitioners in
Complaint Case No. 1292 (C) of 2005 for the offences under Sections
341, 323 and 379 of the Indian Penal Code.

3. The prosecution story, in short, is that the complainant-
opposite party no. 2 was returning to his village Chiranjivipur and on
reaching near the mosque of the said village, the petitioner nos. 1 and 2



with a view to put pressure upon the complainant to sell his land to them, started beating him with fists and slaps. Petitioner no. 1 took out Rs. 400/- from the pocket of the complainant, Petitioner no. 2 snatched his HMT wrist watch, and they issued threat that they would kill the complainant on failure to execute his land in their favour.

4. Learned counsel for the petitioners submits that the entire prosecution is mala fide and the accusations on the face of it are highly improbable. The petitioner no. 1 is working as Superintending Engineer (Civil) in Basundhara Area in Central Coalfields Ltd. while petitioner no. 2 is a permanent employee in S.S.L.N.T. Women's College, Dhanbad. It is submitted that they are residents of Jharkhand and they were present at their respective places of duties at the relevant time. Learned counsel for the petitioners further refers to the solemn affirmation of the complainant wherein the version therein was at variance with the complaint. In the S.A., it is stated that it was the petitioner no. 2 who had taken Rs. 400/- from the pocket of the complainant while petitioner no. 1 had taken the wrist watch.

5. Learned counsel for the opposite party no. 2 appears and submits that there is no error in the order of cognizance and that the petitioners ought to face trial.

6. Having heard the parties and on consideration of the materials on record, this Court finds merit in the petition. The accusations levelled in the complaint appear highly improbable that



the petitioners being persons of some stature would take away the complaint's wrist watch and Rs. 400/- from him. The version in the complaint and the solemn affirmation of the complainant are also at variance which casts serious doubt upon the veracity of the allegations. A perusal of the complaint further shows that not a whisper of any allegation of overt act has been made against petitioner no. 3 who has been implicated merely for the sake of implication.

7. This Court is therefore of the view that the present complaint is merely a vexatious one and continuance thereof would amount to abuse of the process of court. The impugned order dated 30.08.2006 taking cognizance in Complaint Case No. 1292C of 2005 against the petitioners is accordingly hereby quashed and the petition stands allowed.

8. Registry is directed to send back the lower court records without any delay.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	25 .04.2017
Transmission Date	25.04.2017

