

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43772 of 2013

Arising Out of PS.Case No. -1091 Year- 2010 Thana -COMPLAINT CASE District- SUPAUL

=====

1. Bambholi Yadav
2. Bhubneshwar Yadav
Both Sons of Late Chhutaharu Yadav
3. Sita Devi wife of Bambholi Yadav
4. Priti Devi @ Ms. Priti, wife of Bhubneshwar Yadav
5. Vindi Yadav @ Vindeshwar Yadav, son of late Mahabir Yadav
6. Champa Devi, wife of Vindi Yadav @ Vindeshwar Yadav
7. Devan Yadav
8. Sadanand Yadav @ Sadanand Kumar
Both sons of Vindi Yadav, resident of village - Gopalpur, P.S. - Bhaptiyahi, District - Supaul
9. Raushan Devi, wife of Devan Yadav
All resident of village - Gopalpur, P.S. - Bhaptiyahi, District - Supaul

.... Petitioner/s

Versus

1. The State Of Bihar
2. Sulekha Devi, Wife Of Yoganand Yadav, resident of village - Gopalpur, P.S. - Bhaptiyahi, District - Supaul

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Jha, Advocate.
For the Opposite Party/s : Mr. R.B. Roy 'Raman', A.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 13-04-2017

1. This application has been filed for quashing the criminal proceeding initiated against the petitioners including the order dated 22.11.2012 passed by the Judicial Magistrate, 1st Class, Supaul, in Complaint Case No. 1091C of 2010 by which the learned Magistrate after holding enquiry has found *prima facie* case for the offences under Sections 323 and 379 of the Indian Penal Code.

2. Heard learned counsel for the petitioners and the



State.

3. It has been submitted on behalf of the petitioners that the instant case has been filed by the complainant against the petitioners due to land dispute between them.

4. Learned A.P.P. has submitted that there is no illegality in the impugned order.

5. From perusal of the impugned order, it appears that after perusing the Solemn Affirmation of the complainant and statement of three witnesses, the learned Magistrate has found *prima facie* case against petitioners for the offence under Sections 323 and 379 of the Indian Penal Code. Xerox copies of the Solemn Affirmation of the complainant and statement of three enquiry witnesses are available on the record as Annexure-2 series.

6. From perusal of the Solemn Affirmation of the Complainant and statement of three enquiry witnesses, it appears that they have supported the case of the Complainant during enquiry. It is settled law that the court is only required to see *prima facie* case at the time of enquiry on the basis of Solemn Affirmation of complainant and statement of witnesses recorded during enquiry.

7. Therefore, this Court does not find any illegality in the impugned order.

8. The application stands dismissed.



9. Petitioners are given liberty to raise all the points as raised in this Criminal Miscellaneous application at the time of framing of charge, which shall be disposed off by the court below in accordance with law.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.04.2017
Transmission Date	24. 04.2017

