

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.48185 of 2013

Arising Out of PS.Case No. -2781 Year- 2012 Thana -WEST CHAMPARAN COMPLAINT
District- WESTCHAMPARAN(BETTIAH)

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1. Sabir Ahamad, Son Of Khalil Gaddi, Resident Of Village- Pipra Pakari, Tola-Gadiyani, P.S.- Bettiah Muffasil, District- West Champaran
 2. Ram Lochan Prasad, Son Of Late Narayan Mahto, Resident Of Village- Hari Pakari, P.S.- Majhauria, District- West Champaran
 1. 3. Raushan Kumar, Son Of Ram Lochan Prasad, Resident Of Village- Hari Pakari, P.S.- Majhauria, District- West Champaran Petitioners

Versus

1. The State Of Bihar
 2. Dharambeer Kumar Chaurasiya Son Of Indra Deo Prasad Chaurasiya, Resident Of Village- Hari Pakari, District- West Champaran Opposite Parties
- =====

Appearance :

For the Petitioners : Mr. Sanjay Kumar no. 7, Adv.
For the Opposite Parties : Mr. Rajiv Nayan, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 17-01-2017

Heard the learned counsel for the petitioners and the State.

2. A supplementary affidavit has been filed on behalf of the petitioners, let it be kept on record.

3. This is a petition for quashing the order, dated 18.07.2013, passed by Judicial Magistrate, Bettiah, West Champaran, in Complaint Case No. 2781 C of 2012 whereby the petitioners have been summoned to face trial for offences under Sections 323, 504, 427 and 34 of the Indian Penal Code.

4. A bare perusal of the complaint petition would reveal that for land dispute, the petitioners and others committed assault with lathi etc. against the complainant and others. The witnesses examined during enquiry under Section 202 of the Criminal Procedure Code have supported the aforesaid allegation.

5. The impugned order has been challenged on the ground that the petitioners were earlier purchasers and the complainant was subsequently purchaser, therefore, the complainant did not acquire any title and just to put wrongful pressure the false criminal case was lodged.

6. For land dispute, false implication or actual commission of the occurrence both are possible. Hence, at this stage, the Court can not look into the merit of the evidence, available on record or the probable



defence of the accused.

7. Therefore, I am of the view that there is no merit in this application, hence, it stands dismissed.

8. It would be appropriate to notice one thing that there is allegation in the complaint petition regarding firing against co-accused, Md. Haroon. The Court below has not summoned Mr. Haroon only for the reason that he is resident of a different village. There is no presumption that a resident of different village would not commit any crime in some other village. Apparently, the Court below has recorded erroneous evidence.

9. However, the same is not under challenge in this application, therefore, this Court is not recording any finding on that. It would be appropriate to examine the correctness of the aforesaid finding, if the point is raised before the Court below or before other appropriate forum.

(Birendra Kumar, J)

SA/-

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CAV DATE	
Uploading Date	24.01.2017
Transmission Date	24.01.2017

