

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.6012 of 2014

Arising Out of PS.Case No. -101 Year- 2013 Thana -PHULWARI District- PATNA

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1. Kamla Kant Singh, Son of Jogi Narayan Singh
2. Mritunjya Kumar,
3. Manish Kumar Singh,
Both sons of Kamla Kant Singh
All Resident of Mohalla-Viksh Vihar Colony, P.S.-Phulwari Sharif, District-
Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Vishwajit Kumar Singh, Son of Kamat Prasad Singh, Resident of Mohalla-
Vikash Vihar Colony, P.S.-Phulwari Sharif, District-Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 19-07-2017

Heard learned counsel for the petitioners and the State.

2. The petitioners have challenged in this application order dated 30.11.2013 passed by Mr. Jyoti Prakash, Judicial Magistrate, 1st Class, Patna in Phulwarisharif P.S.Case No. 101 of 2013 whereby he has taken cognizance of the offence under Sections 148, 149, 427, 447 and 504 of the Indian Penal Code.

3. F.I.R. of Phulwarisharif P.S.Case No. 101 of 2013 dated 14.03.2013 was lodged by Vishwajit Kumar Singh, the O.P. No. 2. Allegation levelled in the F.I.R., in brief, is that that on 14.03.2013 at about 7:00 P.M. on account of some dispute relating to Rasta, accused persons along with 8-10 strangers, started abusing, assaulting his family members; threw brick-bats and chased him to their house and



they damaged the motorcycle of the O.P. No. 2 parked outside the house.

4. Learned counsel appearing on behalf of the petitioners submits that petitioners have been falsely implicated in this case as a Title Suit No. 33 of 2011 is going on between them so this prosecution case is malicious in nature.

5. Learned A.P.P. submits that in the case diary witnesses have supported the allegation as the same was committed due to dispute of Rasta.

6. Having considered the rival submissions of the parties and on perusal of record, it transpires that none of the petitioners are party in Title Suit No. 33 of 2011 moreover, pendency of civil litigation between parties cannot be a ground for disbelieving case of the prosecution though the enmity cuts both ways. Moreover, allegation is specific against the petitioners as well as evidence collected during investigation makes out a *prima facie* case against them, so finding no ground for interference with the cognizance order, this petition stands dismissed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
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