

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.37797 of 2014**

Arising Out of PS.Case No. -1343 Year- 2013 Thana -KHAGARIA COMPALINT CASE District-  
KHAGARIA

- =====
1. Jai Kishore Singh S/o Late Sudar Singh
  2. Ramkishore Singh S/o Late Sundar Singh
  3. Shambhu Singh S/o Chini Singh
  4. Bablu Singh S/o Girja Prasad Singh
  5. Murari Singh @ Murali singh S/o Vidyanand Singh
  6. Niraj Singh S/o Arun Singh
  7. Kailash Prasad Singh S/o Gita Singh
  8. Digo Singh S/o Bhatu Singh
  9. Sajan Singh @ Sajan Kumar Singh S/o Anand Kishore Singh All are resident of  
Kaithi, P.S.- Chautham, District- Khagaria
  10. Mohan Singh S/o Puto Singh resident of village- Jaiparabha Nagar, P.S.-  
Chautham, District- Khagaria

.... .... Petitioners

Versus

1. The State of Bihar
2. Jamaluddin S/o Md. Uddin resident of village- Kaithi, P.S.- Chautham, District-  
Khagaria

.... .... Opposite Parties

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**Appearance :**

For the Petitioners : Mr. Raj Kumar, Advocate  
For the State : Mr. Ajay Kumar-I, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR**

**ORAL JUDGMENT**

**Date: 07-08-2017**

Heard learned counsel for the petitioners as well as  
learned counsel appearing on behalf of the opposite party no.2 and the  
State.

2. The petitioners file this application under Section 482  
of the Code of Criminal Procedure,1973 for setting aside the order  
dated 2.7.2014 passed by Mr. Prashant Kumar, Judicial Magistrate Ist  
Class, Khagaria in Complaint Case No.1343 of 2013 thereby taking



cognizance of the offence under Sections 147, 323, 427, 379, 385 and 149 of the Indian Penal Code.

3. It is submitted by learned counsel for the petitioners that the land in question, Plot No.4927, khata no.941, area 78 decimals was settled with him in the year 1992 by the Government under Bhudan Yagya Committee and he had sowed the crop in the said land and the accused persons committed theft by cutting away the crop. The falsity of allegation is apparent from the own admission of the complainant during his examination on solemn affirmation before the court below and in paragraph-3 of his statement, he admits that for last 30 years accused persons have been in possession of this land and he was never allowed to take possession of the land by the accused persons. Moreover, the petitioners' side earlier to the present complaint had lodged Chautham P.S. Case No.111 of 2013 dated 17.11.2013 and in this case the police has submitted charge sheet whereas learned counsel appearing on behalf of opposite party no.2 submits that though the complainant has stated that he was not in possession of 30 years but other witnesses have supported the allegation at the enquiry stage.

4. Having considered rival submissions and on perusal of record, this Court finds that crux of the allegation levelled in the complaint is of cutting of the crop of the complainant by the accused



persons, thereafter, subsequent act of assault and making demand of extortion. However, the complainant being examined on solemn affirmation before the court admits that for last 30 years, he has never been in possession of the said land making the case absurd and inherently improbable, so the entire criminal prosecution inclusive of the cognizance order dated 2.7.2014 passed in Complaint Case No.1343 of 2013 pending in the court of Judicial Magistrate Ist Clas, Khagaria is hereby set aside.

5. The petition stands allowed.

**(Arun Kumar, J)**

N.H./-

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