

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47692 of 2013

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Sudhir Kumar Poddar S/O Late Krishna Kant Poddar R/O Village- Shahpur
Bhore Jairam, P.S.- Khanpur, District- Samastipur.

.... Petitioner

Versus

1. The State Of Bihar
2. Sangeet Kumar S/O Kamal Kumar Bhagat R/O Mohalla- Kotwali
Chouk Naka No. 5, P.S. Laheriasarai District- Darbhanga.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Md. Kamran, Advocate

For the Opposite Parties : Mr. Kr.Birendra Narayan (APP)

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA**

ORAL ORDER

4 16-05-2017 The instant Criminal Miscellaneous has been filed for quashing the order dated 08.04.2013 passed by Sri R.K. Roy, the then learned Judicial Magistrate, 1st Class, Darbhanga in Complaint Case No. 2285 of 2012, Trial No. 3771 of 2013, whereby and whereunder, after finding prima-facie case to be made out under sections 323, 504, 452 and 379 of the I.P.C. the accused persons including the petitioner were summoned.

Heard the learned counsel for the petitioner, the learned A.P.P. for the State and the learned counsel for the opposite party no.2.

The complainant Sangeet Kumar filed the complaint case alleging therein that on the day of incident he was sitting in



his room and all the accused persons armed with Lathi, Danda and iron rod came and asked to vacate the house as it was their house. He stated further that the house was partitioned in favour of his mother. He also stated that the accused persons have taking into collusion his maternal grandfather obtained a forged kewala and his maternal grandfather died in 2008 and now they are coming to take force full possession and on making protests the accused persons assaulted him and put a 100 rupees blank stamp paper to sign and out of fear he put signature upon the said blank paper and gave to the petitioner. Co-accused Ganga Ram Poddar snatched away the locket of his mother Lalita Devi. Sangeeta Devi took away payal and Sanjay Poddar took out Rs. 500/- from the pocket of the complainant and torn his shirt. The petitioner after causing threats went away by saying that he is the police officer and he will get vacated the house.

The complainant was examined on the solemn affirmation and thereafter his two enquiry witnesses, namely, Kamal Kumar Bhagat and Ram Babu Prasad were examined and on the basis of the material collected during enquiry the impugned order has been passed.

Submission is that the petitioner has been falsely implicated in the concocted case. The complainant and his father



are the land grabbers through unfair means, no injury report has been brought on the record neither by the complainant nor the alleged paper of the said gift has been brought on the record in order to prove the veracity of the case and as such no case as alleged is at all made out against the petitioner and summoning of the accused persons to face trial is malafide and the impugned order deserves to be quashed.

The learned A.P.P. and the learned counsel for the opposite party no.2, on the other hand, submit that the impugned order has been passed rightly after considering the materials available on the record which were collected during enquiry.

Considering the submissions urged at the Bar, going through the complaint petition, statement of the complainant on S.A and the statements of two enquiry witnesses, it is manifest that the learned Magistrate has passed the impugned order after considering the materials collected during enquiry and he has found prima-facie case to be made out under sections 323, 504, 452 and 379 of the I.P.C. The defence of the accused persons can well be considered at the time of hearing on the point of charge and not at this stage. At the time of taking cognizance the Court is only required to see as to whether on the basis of the materials collected during enquiry prima-facie offence is made out or not.



The learned Magistrate has rightly considered the materials collected during enquiry and has rightly passed the impugned order. There is no need of any interference in the impugned order.

In the result, finding no merit in this Criminal Miscellaneous the same is hereby dismissed and the impugned order is hereby confirmed.

The petitioner may be at liberty to raise all these points which has been urged here at the time of hearing on the point of charge.

(Jitendra Mohan Sharma, J)

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