

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30413 of 2014

Arising Out of PS.Case No. -42 Year- 2007 Thana -MARHAURA District- SARAN

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1. Dev Bahadur Singh
 2. Fateh Bahadur Singh Both are Sons of Late Paspal Singh
 3. Ram Dinesh Singh S/o Fateh Bahadur Singh All are resident of village- Bheriya, P.S.- Marhaura, District- Saran (Chhapra)

.... Petitioners

Versus

1. The State of Bihar
2. Shiv Shankar Kumar S/o Nagendra Bhagat R/o village- Bheriya, P.S.- Marhaura, District- Saran (Chhapra).

.... Opposite Parties

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Appearance :
For the Petitioners : Mr. Sanjay Kumar, Advocate
For the Opposite Parties : Mr. Humayu Ahmad Khyan, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 26-07-2017

Heard.

2. This application under Section 482 of the Cr.P.C. has been filed to quash the order dated 25.07.2007 passed by CJM, Saran at Chapra in Marhaura P.S.Case No.42 of 2007 whereunder cognizance of offence under Sections 448, 323 and 504/34 of the IPC was against the petitioners.

3. The facts in brief is that a police case vide Marhaura P.S.Case No.42 of 2007 was registered on the fardbeyan of Opposite Party No.2 against the petitioners for the offence under Sections 448, 323, 504/34 of the IPC. The matter was investigated and police submitted chargesheet on the basis of which cognizance has been taken.

4. It has been submitted that it was the informant and his men who committed overt-act. They assaulted the petitioners and his brother for which



Marhaura P.S.Case No.41 of 2007 was registered against the informant. In the said occurrence, the petitioner no.3 sustained injury. The court below took cognizance of offence was taken against the informant. The informant filed a petition for his discharge which was rejected. Against that order, the informant filed criminal miscellaneous application no.31103 of 2009 which after hearing was dismissed by this Court. The Magistrate has passed the impugned order in mechanical manner without going into the merit of the case and so the impugned order is fit to be quashed.

5. Learned APP opposed the submissions.

6. On perusal of FIR as well as impugned order, I find that for a land dispute both the parties indulged in scuffle. A counter case was also lodged from the side of the petitioners. The matter was investigated and the police finding sufficient material submitted chargesheet against the petitioners on the basis of which cognizance of the offence has been taken and the petitioners have been summoned. The defence of the accused that said case has been lodged as counter blast to the case lodged on behalf of the petitioners and the enmity on account of land dispute going on shall be considered at the time of trial.

7. In view of the aforesaid facts, I find no merit in this application. Accordingly, this application is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
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