

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32931 of 2011

Arising Out of Complaint Case No. -64C Year- 2010 District- MUZAFFARPUR

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1. Md. Mustaque Ahmad @ Bachcha Babu S/O Sri Kamrul Hoda R/O Village Kataha, P.S. Karja, District - Muzaffarpur (Bihar)
 2. Md. Ehshan Ahmad @ Munna S/O Sri Kamrul Hoda R/O Village Kataha, P.S. Karja, District - Muzaffarpur (Bihar)

.... Petitioners

Versus

1. The State of Bihar
2. Jamrul Hoda, S/O Late Hazi Abdul Mazid, R/O Village Kataha, P.S. Karja, District Muzaffarpur (Bihar)

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Bijay Kumar Pandey
Mr. Amaresh Kumar, Advocates.
For the State : Mr. R.P. Nat, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT

Date: 24-04-2017

Heard learned counsel for the petitioners and learned APP
for the State.

2. The present petition has been filed for quashing the
order dated 06.05.2010 passed by Judicial Magistrate 1st Class,
Muzaffarpur taking cognizance against the petitioners in Complaint
Case No. 64C of 2010 for the offences under Sections 323 and 379 of
the Indian Penal Code.

3. The prosecution case in short is that when the
complainant went to his brinjal field and found Husna Khatoon grazing
her goat on the brinjals, the complainant caught hold of the goat.



Following an altercation, the accused persons came and snatched away the goat from the complainant and assaulted him with fists and slaps. The petitioner no. 1 is alleged to have snatched the wrist watch of the complainant worth Rs. 600/-.

4. Learned counsel for the petitioners submits that the complaint dated 16.01.2010 is frivolous and malicious, having been instituted in retaliation to an earlier complaint dated 13.01.2010 filed by the father of the petitioners against the opposite party no. 2 and other persons with regard to land dispute. It is submitted that the accusations in the present complaint are on the face of it improbable without any material whatsoever to support the accusations and has been filed only with a view to wreak vengeance and put pressure upon the petitioners.

5. None appears on behalf of the opposite party no. 2 when the matter is called today despite appearance having been entered on his behalf.

6. Having heard learned counsel for the petitioners and learned APP for the State, this Court finds merit in the petition. The instant complaint has been filed three days after the complaint was filed by the father of the petitioners against the complainant relating to land dispute. The instant complaint is therefore clearly retaliatory and vengeful and does not inspire confidence with regard to the veracity of the allegations made therein. This Court is of the view that continuance



of the criminal prosecution against the petitioners would amount to abuse of process of court and accordingly the impugned order dated 06.05.2010 passed by the Judicial Magistrate 1st Class, Muzaffarpur taking cognizance in Complaint Case No. 64C of 2010 is hereby quashed and the petition stands allowed.

7. Registry is directed to send back the lower court records without any delay.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	28.04.2017.
Transmission Date	28.04.2017.

