

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25695 of 2011

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1. Shakil Azam,
 2. Jhunnu Azam @ Jhunu Quraishi @ Shuhail Azam,
 3. Nanhu Azam,
 4. Gulfam Azam,
 5. Babul Azam @ Babloo Azam,
 6. Abul Azam, All sons of Late Khalil Quraishi,
 7. Dabloo Azam,
 8. Tipu Azam, both sons of Shakil Azam,
 9. Irshad @ Irshad Azam,
 10. Arshi @ Arshi Azam, both sons of Jhunnu Azam. All are resident of village-Muradabad, P.S. Sasaram, Muffasil, District-Rohtas.

.... Petitioners

Versus

1. The State of Bihar,
2. Qaiyum Quraishi, son of Ibrahim Quraishi, Resident of village-Bikramganj, Ward No. 20, P.S. Bikramganj, District-Rohtas.

.... Opposite Parties.

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Appearance :

For the Petitioner/s	:	Mr. Rashid Rais, Advocate.
For the Opposite Party No.2	:	Mr. Ashok Kumar Pandey, Advocate
		Mr. Rajni Kant Pandey, Advocate
For the State	:	Mr. Ajay Kumar-II, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 25-07-2017

Heard learned counsel for the petitioners, learned counsel for O.P. No.2 and also learned A.P.P. appearing on behalf of State.

2. This application has been filed under Section 482 of the Cr.P.C. to quash the order dated 21.02.2011/24.02.2011 passed in Complaint case No. 992 of 2010, whereunder the Judicial Magistrate, 1st Class, Bikramganj (Rohtas) summoned the accused-petitioners, on inquiry, finding prima facie case under Sections 323, 392 and 120-B of the Indian Penal Code.

3. The fact leading to this application is that O.P. No.2 Md. Qaiyum Quraishi filed the Complaint Case No. 992 of 2010 on 27.12.2010 stating therein that he along with other witnesses were



coming after purchasing 15 goats from rural area. When he reached at Sasaram road then saw a Pick up Van in standing condition to which the accused-petitioners got down and looted the goats on the point of pistol. The accused-petitioner Nos. 2 to 8 also gave threatening to move from there otherwise they will be killed. On protest made by Complainant-O.P. No.2, accused/petitioner No.9 & 10 snatched cash of Rs. 3000/- from the pocket of the complainant. They also tried to kidnap the complainant, but seeing the truck coming from Sasaram, they fled away along with fifteen goat worth of Rs. 40,000/-, cash and watch of witnesses.

4. Learned counsel for the petitioners submits that, in fact, petitioner Nos. 1 to 6 are brother-in-laws of the Complainant-O.P. No.2, whereas petitioner Nos. 7,8,9 and 10 are sons of brother-in-law of the Complainant-O.P. No.2 and all of them have been implicated in this case due to lodging of partition Suit No. 784 of 2009 in the Court of Sub-Judge-VII, Sasaram for partition of the land due disturbance created by the Complainant-O.P. No.2 in cultivation in which Complainant-O.P. No.2 is also one of the defendant being the brother-in-law as marriage of Late Hazrun Nisha, cousin sister of the petitioner Nos. 1 to 6 was performed with the Complainant-O.P. No.2, which would appear from Annexure-1 photocopy of plaint of suit No. 784 of 2009. In spite of filing of the said suit, when Complainant-O.P. No.2 and other disturbed the cultivation then accused petitioner No.1 also lodged the Complaint Case No. 107 of 2010 against the Complainant-O.P. No.2 and 8 others in the Court of Chief Judicial Magistrate, Rohtas, Sasaram and due to that reasons and in counter blast the present Complaint Case has been lodged by the Complainant-O.P. No.2 only to give undue pressure upon the petitioners.

5. Learned counsel appearing on behalf of the



Complainant-O.P. No.2 submits that there is no illegality in the impugned order summoning the accused/petitioners, on enquiry, for the offence under Sections 323, 392 and 120-B of the Indian Penal Code, but he fairly submits that Complainant-O.P. No.2 is the defendant in the said Suit No. 784 of 2009 filed in the Court of Sub-Judge regarding the partition of the land detailed in the plaint. The plaint of Suit No. 784 of 2009, which is Annexure-2 also disclosed that cousin sister of the accused/petitioner Nos. 1 to 6 Late Hazrun Nisha was wife of Complainant-O.P. No.2 and the said suit was filed in the year 2009 prior to filing of the present case. As such, the present case appears to be counter blast of partition Suit No. 784 of 2009.

6. In the result, the impugned order dated 21.02.2011/24.02.2011 passed in Complaint case No. 992 of 2010, whereunder the Judicial Magistrate, 1st Class, Bikramganj (Rohtas) summoned the accused-petitioners, on inquiry, under Section 204 of Cr.P.C. finding prima facie case under Sections 323, 392 and 120-B of the Indian Penal Code summoning the accused-petitioners is hereby quashed. Accordingly, this application is allowed.

(Rajendra Kumar Mishra, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

