

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19996 of 2014

Arising Out of P.S.Case No. -926 Year- 2012 Thana -MUNGER COMPLAINT CASE District-
MUNGER

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Deshraj Nirmal @ Rajo Yadav Son of- Late Mushoo Yadav, resident of- village
Odda Bagicha, P.S.- Dharhara, District- Munger (Bihar)

.... Petitioner

Versus

1. The State of Bihar
2. Suresh Yadav, Son of- Late Singheshwar Yadav, resident of- village Odda
Bagicha, P.S.- Dharhara, District- Munger (Bihar)

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Apurva Kumar, Advocate
: Mr. Atul Kumar, Advocate
For the Opposite Parties : Mr. Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 25-08-2017

This application under Section 482 of the Cr.P.C. has been
filed to quash the order dated 18.01.2014 passed by Sessions Judge,
Munger in Cr.Revision No.219 of 2013 whereby and whereunder the
court below refused to interfere with the order dated 01.05.2013
passed by Judicial Magistrate, Ist Class, Munger in Complaint Case
No.926(C) of 2012. The learned Magistrate as per order dated
01.05.2013 had summoned the petitioner to face the trial for the
offence under Sections 341, 323, 448, 149, 380 and 147 of the IPC.

2. Heard and perused the record.

3. The facts in brief is that the Opposite Party No.2 filed a
complaint case no.926 of 2012 on the file of CJM alleging inter-alia



that on 04.09.2012 this petitioner along with ten others entered into the house of complainant. They abused and assaulted the wife of complainant and when the complainant moved to rescue her, they assaulted him also and took away an amount of Rs.1500/- from the box of the complainant. The matter was enquired and the learned Magistrate finding prima-facie case under the aforesaid Sections summoned the petitioner. The petitioner challenged the said cognizance order by filing criminal revision no.219 of 2013 which after hearing was dismissed.

4. Learned counsel for the petitioner submits that the court below has passed the impugned order in mechanical manner without applying judicial mind. The petitioner was a railway guard and on the alleged date of occurrence he was on duty on train which was going from Patna to Jhajha and so this petitioner had no occasion to commit the crime. He further submits that a land dispute is also going on between the parties for which a proceeding under Section 144 of the Cr.P.C. was initiated and so the impugned order is fit to be quashed.

5. Learned APP opposed the submission.

6. On going through the material on record, I find that this petitioner is named in the complaint petition and specific allegation is that he along with his family members entered into the house of the complainant and assaulted the complainant and his wife. In course of



enquiry, the witnesses have supported the allegation of assault and committing theft of Rs.1500/- from the box of the complainant. The learned Magistrate finding prima-facie case has summoned the petitioner. I do not find any illegality in summoning the petitioner. The defence of the petitioner is ali-by and his false implication on account of land dispute shall be considered at the time of trial.

7. In this view of the matter, I do not find any merit in the application. Accordingly, this application is dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	30.08.2017
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