

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39442 of 2014

Arising Out of PS. Case No. -3091 Year- 2011 Thana -WEST CHAMPARAN COMPLAINT
District- WESTCHAMPARAN (BETTIAH)

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1. Mohan Mahto, Son of Late Jhakar Mahto
2. Mukesh Mahto, Son of Mohan Mahto
3. Rajesh Mahto, Son of Mohan Mahto
All Residents of Village- Barbat Pasarain, P.S.- Bettiah (M), District-
West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. Bhullai Patel, Son of Late Chuman Patel, resident of Village-Batbaria,
P.S.- Bettiah (T), District-West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhavesh Kumar, Advocate

For the Opposite Party/s : Mr. Rana Randhir Singh (App)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

5 21-09-2017 Heard learned counsel for the petitioners and State.

Petitioners have filed the instant application for quashing of the order dated 24.06.2014 passed by the learned Judicial Magistrate, 1st Class, Bettiah, West Champaran in Complaint Case no. 3091 C of 2011, whereby the learned Magistrate took cognizance for the offence under Sections 323 and 379/34 of the Indian Penal Code.

Counsel for the petitioners submits that the instant case is pure and simple civil dispute and it has been given a cloak of criminal offence and, as such, this Court should exercise its jurisdiction under Section 482 of the Cr.P.C. and quash the entire



proceeding.

Earlier notice was issued to the opposite party no.2, but it appears that opposite party no.2 is reluctant in assisting the Court.

Having regard to the fact that in the instant case cognizance was taken vide order dated 24.06.2014, no useful purpose would be served by keeping this matter pending.

This application is disposed of with a direction to the court below to conclude the trial preferably within a period of six months from the date of receipt/production of a copy of this Court order, as the order taking cognizance is dated 24.06.2014. While deciding the Complaint case, the court below is expected to consider the desirability of refusing adjournment to any party, particularly, in view of the fact that the police after investigation has submitted final form and, as such, the accused persons cannot be compelled to face the ordeal of the trial court indefinitely. In any event, the court below must conclude the proceeding within the outer limit of six months from the date of production of a copy of this order.

It goes without saying that in the event the accused persons are acquitted, the court below may take recourse to the provisions of law for not only initiating proceeding for malicious



proceeding, but also consider the desirability of awarding cost.

With the aforesaid observations, this application stands disposed of.

(Anil Kumar Upadhyay, J)

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