

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40815 of 2014

Arising Out of PS.Case No. -136 Year- 2011 Thana -NAWANGAR District- BUXAR

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1. Bhagwati Singh, Son of Late Sheopujan Singh
 2. Prithvinath Singh @ Pappu Singh, Son of Bhagwati Singh
 3. Sudhir Kumar Singh, Son of Bhagwati Singh
 4. Shailendra Kumar Singh son of Bihari Singh
 5. Mrityunjay Kumar Singh Son of Bihari Singh
 6. Arvind Kumar Singh son of Late Deo Muni Singh
 7. Bhagwan Singh son of Late Deo Muni Singh
 8. Sushil Kumar Singh son of Sri Bhagwan Singh
 9. Chandlesh Singh son of Late Raja Ram Singh
 10. Rina Devi, Wife of Mritunjay Kumar Singh
 11. Manju Devi, wife of Arvind Singh
 12. Shanti Devi @ Shanichara Devi, Wife of Bhagwati Singh
 13. Arvind Kumar singh @ Bablu Kumar Singh @ Ajeet Kumar Singh Son of Bhagwati Singh
 14. Sandeep Kumar Singh @ Sandeep Kumar Son of Arvind Singh, All resident of village- Athar, P.S. Navanagar, District- Buxar

.... Petitioners

Versus

1. The State of Bihar
2. Asha Devi wife of Vijay Kumar Singh, resident of village- Athar, P.S. Nawanagar (Basudeva O.P.), District- Buxar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Manish Kumar
For the State : Mr. Binod Kumar (App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

4 11-12-2017 Heard learned Counsel for the petitioners as well as the learned Counsel for the State.

The petitioners seek quashing of the cognizance order dated 29.10.2013 passed in Nawanagar PS Case No. 136 of 2011 by the learned CJM Buxar, thereby taking cognizance of the offence under Sections 147, 341, 323, 354, 504 and 379 of the IPC

The brief fact giving rise to the case is that the Opposite



party No. 2, the informant of Nawanagar PS Case No. 136 of 2011, lodged the FIR against all fourteen accused persons, who are the petitioners here, alleging that while she was on her land and foundation work was to be started, all the accused persons turned up, started abusing, when her daughter came to rescue her all the accused persons assaulted her with fists, slaps, lathi, danda and Shailendra Kumar Singh snatched a golden chain from her neck and Ajit Kumar Singh snatched a earring from the daughter's ear.

Learned Counsel for the petitioners submits that it is a malicious prosecution. On account of land dispute several cases were earlier lodged by the informant and the police not finding the involvement of Arvind Kumar Singh @ Bablu and Sandeep Kumar Singh did not send up both of them for trial, but without any evidence against them the Court has taken cognizance against these two also and issued summons.

Having considered the submission and on perusal of the record the court finds that the police not finding the involvement of Arvind Kumar Singh and Sandeep Kumar Singh, a 15 years' old boy at the time of occurrence not sent up them for trial but the learned Magistrate without referring paragraphs of the case diary without giving reference to evidence against them has taken cognizance against these two also. So the cognizance has been taken against these two accused without finding any evidence against them, so the entire criminal proceeding inclusive of the cognizance order dated



29.10.2013 passed in Nawanagar PS Case No. 136 of 2011 with respect to petitioner No. 6 Arvind Kumar Singh and petitioner No. 14 Sandeep Kumar Singh @ Sandeep Kumar is hereby quashed.

The application stands allowed with respect to petitioner Nos. 6 and 16 however against rest petitioners the application stands dismissed.

(Arun Kumar, J.)

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