

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42500 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- NALANDA (BIHARSHARIFF)

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1. Gopal Das @ Ram Pravesh Das, s/o late Dani Das @ Dani Mahto,
 2. Tuntun Prasad, s/o late Deni Das @ Dani Mahto, both resident of village- Ametara, P.S.- Harnaut, Dist.- Nalanda,
 3. Jogendra Prasad, s/o Bhawsagar Yadav, resident of village- Dhunia Tarn, P.S.- Ekangar Sarai, Dist.- Nalanda,
 4. Brahamdeo Prasad, s/o Chhotu Das, resident of village- Khojachak Purandarpur, P.S.- Ekangar Sarai, Dist.- Nalanda,
 5. Vijai Prasad, s/o Sita Ram Prasad, resident of village- Barsima, P.S.- Ekangar Sarai, Dist.- Nalanda,
 6. Kailash Prasad, s/o Jogendra Sao, resident of village- Ekangar Sarai, P.S.- Ekangar Sarai, Dist.- Nalanda

.... Petitioner/s

Versus

1. The State of Bihar
2. Mahanth Krishna Muni Das, Mahanth Udasin Bari Sangat, Ekangar Sarai, P.S.- Ekangar Sarai, Dist.- Nalanda

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rewati Kant Raman, Advocate
For the Opposite Party/s : APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 03-10-2017

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 25.07.2008 passed by the Judicial Magistrate, Hilsa, in Complaint Case No.917 of 2007 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners and others for the offence under Section(s) 144, 379 Indian Penal Code.

None has appeared on behalf of the Opposite Party No.2.



Counsel for the petitioners has submitted that this is a matter of civil dispute. The impugned order taking cognizance is bad in law.

It is alleged in the written report that on the date of occurrence the Complainant, claiming himself to be the Mahanth of *Udasin Bari Sangat*, Ekangar Sarai, since 22.01.2004, was cultivating the land of *Sangat* and had planted paddy crops in the land. The accused persons wanted to harvest those lands for which he had informed the local police. It is alleged that on 18.11.2007 when Complainant went to see his paddy crops, he found the accused persons were harvesting the same and on his protest accused, Dani Das, ordered to kill him. Thereafter, accused, Ram Pravesh Prasad, fired, but no injury was caused. On halla, witnesses and villagers arrived. It is alleged that other co-accused , Brahmdeo Prasad (petitioner No.4) and Yamuna Yadav also fired and cut away the paddy crops worth rupees sixteen thousand.

Learned counsel for the petitioners submits that number of cases are pending between the petitioners and the Complainant-Opposite Party No.2. The Bihar State Religious Trust Board has constituted a committee and appointed one Baijnath Singh as the Secretary of the Committee, *Anchal Adhikari*, Ekangar Sarai as President and other persons as members of the Committee due to



which Mahanth Om Prakash Das, Chela of Late Mahanth Das instituted Title Suit No.19 of 1995 for declaration that Bihar State Religious Board has no power to constitute the Committee as the property is private.

During pendency of the aforesaid suit, the Complainant has filed a petition before the DCLR, Hilsa, and on the basis of report of *Anchal Adhikari*, proceeding under Section 107 Cr. P. C. was initiated.

In this manner, from the aforesaid facts, as well as allegation levelled, in the written report, it appears that the instant case has been filed by the Complainant on account of civil dispute with intention to harass and wreck vengeance against the petitioners.

Accordingly, the impugned order dated 25.07.2008 passed by the Judicial Magistrate, Hilsa, in Complaint Case No.917 of 2007 along with entire criminal proceeding against the petitioners is hereby quashed.

The application is, accordingly, allowed.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14-10-2017
Transmission Date	14-10-2017

