

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47039 of 2013

Arising Out of PS.Case No. -20 Year- 2013 Thana -COMPLAINT CASE District- ARRARIA

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1. Mahesh Thakur, Son of Late Bidyanand Thakur R/O Village-Ramai
2. Khursid @ Md Khursid Son of Md Kalimuddin R/O Village-Tirskund, P.S.-
Forbesganj, Distt-Araria

.... Petitioner/s

Versus

1. The State of Bihar
2. Birendra Thakur @ Kanhaiya Son Of Late Bhoganand Thakur R/O Village-
Ramai, P.S.-Forbesganj, Distt-Araria

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 23-06-2017

Heard learned counsel for the parties.

2. The petitioners have filed this quashing petition against the order dated 01.06.2013 passed by Sri Sanjay Singh, Judicial Magistrate 1st Class, Araria in connection with Complaint Case No. 20C of 2013 whereby cognizance has been taken against them under Section 323, 341, 379 and 420 of the Indian Penal Code.

3. The complainant's case in brief is that in the year 2012-13 land of Government Ramanand High School, Ramai (Araria) was temporarily settled in favour of Khurshid Alam (petitioner no. 2) by open bid for. The complainant (O.P. No. 2) also contributed 50% share of the settlement amount and he came in possession of 50% of the land and the complainant gave half of the area to Mahesh Thakur (petitioner no. 1) for doing agriculture on *Batai*. The complainant asked for his half



share of paddy crop then both accused refused to give the paddy, abused and assaulted him and committed theft by snatching his wrist watch and mobile and they also threatened that knowingly they have not made any agreement with him relating to the half land taken by him in auction so they have cheated the complainant.

4. Learned counsel for the petitioners submits that the complaint case filed by the complainant-O.P. No. 2 is malicious in nature and frivolous on face of the record. It is submitted that as per allegation, temporarily settlement of agriculture land of Government Ramanand High School was made in favour of Khurshid, petitioner no. 2 so there is no question of giving half of the land on *Batai* to Mahesh Thakur and another by the complainant for cultivation. Moreover there is no evidence or any document to show that complainant contributed half of the auction amount.

5. Learned counsel for the petitioners further submits that Annexure-2 shows that how this case is malicious in nature, which is a copy of the settlement certificate issued by the Incharge Principal of the Government Ramnandan High School, Ramai (Araria) in favour of the petitioner no. 2 (Khurshid Alam) only for total 15 acres land, which was temporarily settled in his favour for agriculture purposes for the year 2012-13. He further submits that from the list of recording of the open bid, it is evident that petitioner no. 2 was the highest bidder and his



name appears at sl. No. 7 whereas the complainant is the second highest bidder and his name is appearing at sl. No. 5 in the list and accordingly, a certificate was also issued by the Incharge Principal of the school, which is annexure-2.

6. Learned A.P.P. supports the impugned order, however, no one appears on behalf of the O.P. No. 2.

7. Learned counsel for the petitioners has been able to show, vide Annexure-2 series that the settlement of the Government land was made in favour of the petitioner no. 2 only and the complainant also participated in the open bid for settlement of that land but could not succeed as Khursid, petitioner No. 2, was the highest bidder. So it appears that the complainant, by way of filing complaint, wants to wreck vengeance as the settlement of the land could not be made in his favour, therefore, finding this prosecution case malicious in nature, the cognizance order dated 01.06.2013 passed in Complaint Case No. 20C of 2013 and the subsequent proceeding in the court below is set aside. The petition stands allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	17.07.2017
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