

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.16047 of 2013

Arising Out of PS.Case No. -1192 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. Shakuntala Singh W/O Late Sahja Nand Singh Advocate, Resident Of Ground Floor Of Flat Of Nidhi House No.-31, Road No.-10, Patel Nagar, P.S.- Shashtri Nagar, District- Patna
 2. Ajay Shankar, Advocate S/O Late Saryoo Prasad Singh Resident Of Salimpur Ahra, P.S.- Gandhi Maidan, District- Patna.
 3. Rajiv Ranjan, Advocate S/O Sri V.S.P. Singh Resident Of Mohalla- Nehru Nagar, P.S.- Patliputra, District- Patna
 4. Ranju S/O Sri Uday Shankar Resident Of Mohalla- Salimpur Ahra, P.S.- Gandhi Maidan, District- Patna
 5. Chotu S/O Late Ram Das Singh Resident Of Mohalla- Mitra Mandal Colony, Anisabad, P.S.- Gardanibag, District- Patna

.... Petitioners

Versus

1. The State Of Bihar
2. Nagendra Sharma S/O Shri Dholan Sharma Resident Of 1st Floor, Flate Of Sri Nidhi, House No.-31, Road No.-10, Patel Nagar, P.S.- Shastri Nagar, District- Patna, At Present Residing At The House Of Sri Baijnath Singh (Engineer), R.M.S. Colony, Kankarbagh, P.S.- Kankarbagh, District- Patna.

.... Opposite Party

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Appearance :

For the Petitioners	:	Mr. Amit Kumar Anand
For the State	:	Mr. APP
For the O. P. No. 2	:	In Person

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 31-10-2017

Heard learned Counsel for the petitioners and the learned Counsel for the State as well as the Opposite party No. 2 in person.

2. The petitioners by filing this application for quashing under Section 482 of the Code of Criminal Procedure seek quashing of the cognizance order dated 8.3.2013 passed by the learned Judicial Magistrate, 1st Class, Patna in connection with Complaint Case No. 1192(C) of 2012,



thereby taking cognizance of the offence under Sections 323, 380 and 504 of the IPC.

3. The brief fact, as narrated in the complaint, is that all the accused persons are relative of the complainant and he has/had been residing at the place of occurrence for the last 17 years. On 29.4.2012 at 10.00 AM all the accused persons, save accused No. 2, forcibly with criminal intention entered the first floor of the house and on the telephonic orders of accused No. 2, an officer in the Railway Protection Force (RPF) posted at the relevant time in Jaipur, Rajasthan, kicked out the complainant along with his belongings from the flat. When he objected, then they abused and one of the accused namely Ajay Shankar caught hold of his neck and with intention to murder him started pressing his neck. In the meantime, other two co-accused Rajiv Ranjan and Chhotu assaulted over his body with the but of the country made pistol, so he sustained injury. Smt. Shakuntala Singh and Ranju also entered inside the room and Shakuntala Singh, his mother-in-law, stolen away Rs. 50,000/- kept in the Almirah and Ranju committed theft of Rs. 5000/- kept in the shirts' pocket. The complainant went to the local police station to lodge a case but no case was registered, so he filed the complaint before the Court.

4. Learned Counsel appearing on behalf of the petitioners submits that the allegations levelled by the complainant are absurd and unbelievable. Petitioner No. 1 is his mother-in-law and petitioners 2 and 3 are cousin brother-in-law. The complainant was not residing at the place of occurrence i.e. the house of the accused persons because he is son-in-



law and he only used to visit the place, rather he used to reside at his own house and this fact is reflected from the plaint of Title Suit No. 377 of 2012 filed by none else, the father of the complainant against his only son as he had purchased the land after his retirement in the name of his son and also built a house over that plot, but he was forced to file suit because his son, the complainant, wanted to grab the land and the house and intended to oust the father from the said house and also to save interest of his daughter-in-law and two daughters of the complainant. Not only that, he was forcing his wife to claim share in the ancestral property of her parents and when she denied, he filed divorce suit against the wife and due to this reason to wreak personal vengeance he filed this false case and during enquiry only solitary witness was produced. Moreover, the allegation is that he was assaulted by three persons and he sustained injuries but no injury report is on the record and he is alleging theft against his mother-in-law, an old lady. Not only that, the complainant's daughter has also filed an informatory petition in the court of CJM stating therein that the complainant is making all efforts to grab the property of others and not taking care of his own daughters with regard to their living and education and leveling false allegation of theft against the maternal grandmother, petitioner No. 1 of this application, and the maternal uncle, the other accused persons.

5. Contrary to that, the complainant Opposite Party No. 2 appeared in person and submitted that he was living in the flat of his father and mother-in-law and they forcibly kicked him out of the flat along with



his all belongings by throwing those articles on the road. Moreover, other accused persons also assaulted him.

6. Having considered the rival submissions and on perusal of the record it is admitted position that petitioner No. 1 is mother-in-law of the complainant and rest other petitioners are also close relatives, cousin of brother-in-law. In reply to the court's query, the complainant at the time of his examination admits of strained relationship with his wife and the complainant also admitted that the said house was not his own rather it was of the accused persons. The sole enquiry witness has also admitted that there is some family dispute between both sides. Even the father of the complainant has also filed Title Suit No. 377 of 2012 against his only son seeking relief therein to declare the title in favour of the plaintiff and also to restrain his son from alienating the land and the suit property. The complainant's daughter has also given an informatory petition stating therein that her father is in habit of lodging false and frivolous cases and he used to misbehave with her mother. The relationship of the complainant with his wife, daughter of petitioner No. 1, is strained and he has also filed a divorce suit against her and the matter is still subjudiced. It is alleged by the complainant that he was assaulted by three persons who caused injury over his body, but there is no any such injury report on the record. So, there appears no prima facie case being made out against the petitioners relating to theft and assault alleged to be committed by the cousin brothers of the wife and the mother-in-law.

7. It appears that due to strained relationship with his wife due to



matrimonial discord relating to some property dispute this case has been filed in order to wreak personal vengeance against the accused persons. So continuance of the criminal proceeding in the matter would be abuse of the process of the Court, hence all criminal proceeding inclusive of the cognizance order dated 8.3.2013 with respect tio Complaint Case No. 1192(C) of 2012 pending in the Court of Judicial Magistrate, 1st Class, Patna is hereby quashed.

8. The application stands allowed.

(Arun Kumar, J.)

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AFR/NAFR	
CAV DATE	N/A
Uploading Date	03.11.2017
Transmission Date	03.11.2017

