

**IN THE HIGH COURT OF JUDICATURE AT
PATNA**

Criminal Miscellaneous No.33670 of 2014

Arising Out of PS.Case No. -2003 Year- 2007 Thana -BHOJPUR COMPLAINT CASE District-
BHOJPUR

=====

1. Radha Charan Sah
2. Shatrughan Prasad Sah
3. Hakim Prasad Sah All are sons of late Haribansh Sah All resident of Mohalla -
BabuBazar, Police Station - Ara Nagar, District- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sitapati Devi Wife of Sheojee Singh Resident of Village and Police Station -
Pawana, District- Bhojpur at present resident of Parmar Complex, south Ramana
Road, Police Station - Ara Nawada, District- Bhojpur.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Makardhwaj Upadhyay

For the Opposite Party/s : Mr. Pdeep Nr. Kumar

=====

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 31-07-2017

Heard the learned counsel for the parties.

2. The petitioners have filed this application under
Section 482 of Cr.P.C. challenging the order dated 20.05.2008 passed
by Sri Sumit Ranjan, Judicial Magistrate, Bhojpur, Ara in Complaint
Case No.2003 (c) of 2007, Trial No.3384 of 2009 whereby he has
taken cognizance of offence under Sections 148, 149, 452 and 380 of
the I.P.C.

3. The fact, as narrated in the complaint petition in brief,
is that on 30.04.2005 while the complainant was at her house while



her husband and both sons were at Parmar Complex at Ramna Road, Ara, all of sudden, she heard exhortation made by people to kill them, hearing alarm raised by her husband and son she and she reached there and saw the family members of Chaturbhuj Singh and their men, having armed with deadly weapons came there, assaulted the complainant with fists and slaps and committed theft of a brief case cloths, ornaments and cash etc. and while they were retreating fired as a result of which one of their associates sustained firearm injury. Motive of the occurrence as alleged is that once Chaturbhuj Singh had purchased a piece of land adjacent to the complainant, who wants to forcibly take possession of land of the complainant and one day prior to the occurrence exchange of hot words had taken place and they threatened the complainant of dire consequences.

3. It is submitted by the learned counsel for the petitioners that prior to the filing of the present complaint case. Complaint Case No.578 (c) of 2005 was filed which was sent for institution of F.I.R. by the Chief Judicial Magistrate, Ara under Section 156(3) of Cr.P.C. accordingly, F.I.R. bearing Nawada P.S.Case No.111/05 was lodged under Sections 147, 148, 149, 307, 452, 380 of I.P.C. as well as Section 27 of the Arms Act only against Bir Bahadur Singh , Ravi Shankar Singh and Om Prakash Singh and 20-25 unknown persons.



4. On completion of the investigation police finding the case untrue submitted final form coming to the conclusion that if a false counter case of Ara Nawada P.S.Case No.104/05 dated 30.04.2005 lodged by Awadhesh Singh, as his son was killed in the occurrence which the husband of the complainant and her two sons are named accused persons. Police recommended to proceed under Sections 182 and 211 of Indian Penal Code against the complainant for lodging false case.

5. In the said Nawada P.S.Case No.41/05 these two petitioners in were not named and no any allegation was leveled against these petitioners. Considering these grounds earlier this Court had quashed the entire proceeding with respect to, 11 accused persons, namely, Arun Kumar Singh, Bir Bahadur Singh, Manoj Singh, Rakesh Singh, Awadhesh Singh, Om Prakash Singh, Lalan Singh, Dadan Singh, Doman Singh, Sahdeo Singh and Chaturbhuj Singh by order dated 26.3.2012 passed in Cr.Misc. No.26117 of 2008 with Cr.Misc.No.37621 of 2008.

6. Learned A.P.P. submits that there is no illegality in the impugned order.

7. Having considered rival submissions it is apparent that prior to the complaint filed by the complainant she had filed earlier a Complaint Case No.578 (c) of 2005 alleging the same fact as stated in



the present case in which only three other accused persons were named as accused and not these petitioners. Later on these 15 persons were made as accused in the present complaint. Nawada P.S.Case No.111 of 2005 lodged on the basis of Complaint Case No.578 C of 2005 and on conclusion of investigation police found the case false and police found it lodged as counter case to Ara Nawada P.S.Case 104/05 for murder of Ravi Shankar Singh, son of Awadhesh Singh as he was killed by the petitioners husband and son . There is no specific overt act against these petitioners in the entire complaint petition. So the present complaint filed by the complainant appears malicious in nature appears to have been filed in order to take personal vengeance, so entire criminal proceeding inclusive of order taking cognizance dated 20.5.2008 passed in Complaint Case No.2003 (c) of 2007 are hereby set aside.

8. In the result, this application is allowed.

(Arun Kumar, J)

AnilKrSinha/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

