

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.26131 of 2012

Arising Out of PS.Case No. -3101 Year- 2010 Thana -null District- PATNA

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1. Santosh Kumar Singh @ Bittu Singh, son of Sri Birendra Kumar Singh, resident of West Lohanipur, P.S. Kadamkuan, District- Patna, at present Gagan Apartment, Flat No. 406, 4th Floor, P.S.- Gandhi Maidan, District- Patna.
 2. Arvind Kumar Singh @ Deepu Singh, Son of Sri Anirudh Singh, Resident of West Lohanipur, P.S. Kadamkuan, District- Patna, at present Gagan Apartment, Flat No. 406, 4th Floor, P.S.- Gandhi Maidan, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sonu Ram, Son of Kailash Ram, resident of Village- Kushwan, P.S. Dhanarua, District- Patna.
3. Om Narayan Sharma, Son of Late Muktinath Sharma, Managing Partner, Chankya Picture Palace, Exhibition Road, P.S.- Gandhi Maidan, Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amresh Kumar Sinha.

For the O.P. No. 3 : Abhinay Raj, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT

Date: 13-04-2017

Heard learned counsel for the petitioners, learned

A.P.P. for the State and the learned counsel for the opposite party no.

3.

2. This application, under Section 482 of the Code of Criminal Procedure, is directed against the order dated 13.05.2011 passed in Complaint Case No. 3101 (C) of 2010, whereby the learned Judicial Magistrate Ist Class, Patna, summoned the accused-petitioners, on inquiry, under Section 204 of Cr.P.C finding the prima facie case, under Sections 504, 385, 323, 341, 448 and 506/34 of the Indian Penal Code.



3. The facts leading to this application is that complainant-opposite party no. 2 being the labour contractor was present in the campus of Chanakya Picture Palace Compound, Exhibition Road, Patna along with labourers on 09.10.2010. Some unsocial elements were making demand of ransom to the owner of the Chanakya Cinema for demolition of Chanakya Cinema and construct to multi storeyed building. In the evening of 09.10.2010, petitioners along with 40 to 50 persons came on motorcycles and surrounded the complainant-opposite party no. 2 and stopped the work giving threatening of dire consequences. At that time, Bittu Singh @ Santosh Singh (petitioner no. 1) caused injury to complainant-opposite party no. 2 through the butt of the pistol whereas Dipu Singh (petitioner no. 2) also caused injury to complainant-opposite party no. 2 through fist and slip. In the meantime, Om Narayan Sharma (opposite party no. 3) owner came there then the petitioners made demand of ransom Rs.10,00,000/- giving threatening that unless ransom is not paid the work will not be permitted. Thereafter, Om Narayan Sharma (opposite party no. 3) accompanied him at Gandhi Maidan Police Station for lodging the case but the Officer-in-charge was not present then written complaint was handed over to the Police Station. On 10.10.2010, opposite party no. 2 again went at the police station then he came to know that no case is instituted on the basis of his written report.



Thereafter, he informed to the Higher Police Officials and lodged the complaint case. After filing of Complaint Case No. 3101 (C) of 2010 by the complainant-opposite party no. 2, the learned Judicial Magistrate Ist Class, Patna, summoned the accused-petitioners, on inquiry, under Section 204 of Cr.P.C finding the prima facie case, under Sections 504, 385, 323, 341, 448 and 506/34 of the Indian Penal Code through the impugned order.

4. Learned counsel for the petitioners submits that, in fact, petitioners were inducted as tenant in the year 1987 in the Fatima Manzil, Chanakya Picture Palace Compound, Exhibition Road, Patna, by Late Samsher Rahman and the rent was being paid to him. After his death the rent was being paid to his son, Md. Syed Jamiur Rahman who vide his letter dated 19.07.2001, informed to the petitioners regarding family partition of the property with a request to pay the rent of the premises to Mrs. Yasmin Bano. Thereafter, rent was being paid to Yasmin Bano, till January, 2010 but thereafter she refused to take the rent in collusion of Om Narayan Sharma (opposite party no. 3 and his wife Sabita Sharma and started to harass the petitioners so that they may vacate the rented premises. Thereafter, petitioners filed Title Suit No. 33 of 2010, on 21.07.2010, against Yasmin Bano, Md. Syed Jamiur Rahman, Om Narayan Sharma (opposite party no. 3) and his wife Sabita Sharma for injunction to restrain them not to interfere im



possession of petitioner over rented premises. In the said Title Suit, on the application of the accused-petitioners, status quo order was passed on 21.01.2011. After filing the Title Suit No. 33 of 2010 by the petitioners against the opposite party no. 3 and others not to interfere in possession of rented premises of the petitioner the opposite party no. 3, only to give undue pressure so that the petitioners may not contest the suit, got managed to lodge the present complaint case through the opposite party no. 2.

5. Learned counsel for the opposite party no. 3 submits that his son, Shjiv Narayan Sharma, had filed the Title Suit No. 66 of 2011 against the accused-petitioners after purchase of premises covering the rented portion of the petitioners and the suit decreed ex parte on 22.11.2011 but he has not denied about the filing of Title Suit No. 33 of 2010 by the accused-petitioners, in which opposite party no. 3 and his wife were made party as defendant nos. 3 and 4 and also about passing the order of status quo on 21.01.2011.

6. On going through the Complaint Case No. 3101(C) of 2010, it appears that the complaint petition has been filed by the opposite party no. 2 on 18.11.2010 after filing of Title Suit No. 33 of 2010 by the petitioner no. 1 against the opposite party nos. 3, his wife and others but there is no description in the complaint petition about filing of Title Suit No. 33 of 2011 restraining the opposite party no. 3,



his, who were defendant nos. 3 and 4 to not interfere in the rented premises of accused-petitioners. As such, complaint case appears to be counter blast of filing of Title Suit No. 33 of 2010 by the accused petitioners against the opiate party no. 3, his wife and two others.

7. In the result, the impugned order dated 13.05.2011 passed in Complaint Case No. 3101 (C) of 2010 and entire criminal proceeding is hereby quashed and accordingly, this application is allowed.

(Rajendra Kumar Mishra, J)

Bhardwaj/-

AFR/NAFR	
CAV DATE	
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