

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.13011 of 2014

Arising Out of PS.Case No. -46 Year- 2013 Thana -SONBERSA District- SAHARSA

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1. Manik Chand Mani Son Of Late Satya Narayan Yadav Resident Of Village- Khureshan, P.S- Salkhua, District- Saharsa.
 2. Veena Devi @ Veen Kumari W/O- Late Manik Chand Mani Resident Of Village- Khureshan, P.S- Salkhua, District- Saharsa.
 3. Jivan Jyoti Son Of Late Ganga Choudhary, Resident Of Village - Sonbarsa, P.S- Sonbarsa Raj, Ditt- Saharsa.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Om Prakash Joshi Son Of Late Kalu Ram Jhosi Resident Of Village- + P.S- Sonbarsa Raj Distt- Saharsa.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Mishra Miss. Monika
For the Opposite Party No. 2	:	Mr. Bidhan Chandra Jha Mr. Bal Krishan Mishra
For the State	:	Mr. Ram Sumiran Roy, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 26-07-2017

This application under Section 482 of the Code of Criminal Procedure has been filed to quash the order dated 03.01.2014 passed by Chief Judicial Magistrate, Saharsa in Sonbarsa Raj P.S. Case No. 46 of 2013 whereunder cognizance under Sections 451, 504, 506, 380 and 384/34 of the Indian Penal Code has been taken against the petitioners.

2. Heard both sides.

3. The facts in brief is that a police case vide Sonbarsa Raj



P.S. Case No. 46 of 2013 was registered on the written report of the Opposite Party No. 2 (informant). The informant has alleged that on 25.02.2013, these petitioners broke open the lock of the house of the informant and took away household articles in his absence and also took possession of his house. When the informant inquired about the incident, they demanded Rangdari to the tune of Rs. two lacs for vacating his house and threatened of dire consequence.

4. It has been submitted that the petitioners purchased a portion of the land from one of the co-sharer of the informant. The allegation of taking away the household articles and taking possession of the house is false. The petitioners were put in possession over the portion of the house by the land owner, Kiran Devi. There is bona fide land dispute between the parties for which the informant has filed a Title Suit No. 68 of 2013. The learned Magistrate has passed the impugned order in mechanical manner and so, the order taking cognizance is fit to be quashed.

5. The learned counsel for the Opposite Party No. 2 as well as the learned A.P.P. for the State opposed the submissions.

6. On perusal of F.I.R. and documents on record, I find that the petitioners, on the date of occurrence, broke the lock of the house of the informant and forcibly took possession. They also took away the household articles. The petitioners allegedly purchased one



decimal of land, which was in joint possession of three co-owners as it appears from the copy of Title Suit No. 68 of 2013. The petitioners had no right to take possession forcefully over the entire land / house. At the time of enquiry, the informant and witnesses have supported the allegation of breaking the lock of the house of the informant and taking away of household articles. The learned Magistrate finding prima facie case for the offence under the aforesaid sections has rightly taken cognizance.

7. In view of the facts stated above, I do not find merit in this application. As such, this Criminal Miscellaneous Application is dismissed.

(Sanjay Kumar, J)

ajaypd./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.07.2017
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