

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.44189 of 2014

Arising Out of PS.Case No. -824 Year- 2013 Thana -ROHTAS COMPLAINT CASE District-
SASARAM (ROHTAS)

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Rama Shankar Prasad, Son of Mauji Lal, Resident of village- Fajulahaur, P.O.-
Ranipur, P.S.- Islampur, District- Nalanda

.... Petitioner/s

Versus

1. The State of Bihar
2. Bhagwati Prasad, Son of Late Bilat Sah Resident of Mohalla Mochi Tola,
Sasaram, Ward no.-22, P.S.- Sasaram Town, District- Rohtas (Sasaram)

.... Opposite Party/s

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Appearance :

For the Petitioner/s :

For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 04-12-2017

Heard learned counsel for the petitioner and learned
counsel for the State as well as learned counsel for the O.P. No. 2.

2. Petitioner seeks quashing of cognizance order dated
06.08.2014 passed by Mr. S.P.Mourya, Judicial Magistrate, 1st Class,
Sasaram in Complaint Case No. 824 of 2013/2851 of 2013 thereby
taking cognizance of offence under Sections 323 and 341 of the
Indian Penal Code.

3. A brief fact giving rise to the case is that in the
evening of 22.07.2013 at about 7:00 P.M., the complainant was going
to his house, on the way, he was surrounded by the petitioner along
with five unknown persons and they caught hold him and assaulted
him with fists and also said that for the last 10 years, causing nuisance



by lodging case against him and snatched his gold chain, new mobile phone and Rs. 500/- from his pocket.

4. Learned counsel for the petitioner submits that petitioner is a Jailor and posted in Jharkhand and earlier the complainant also had filed a frivolous Complaint Case No. 377 of 2004, which has been quashed by this Hon'ble Court vide order dated 23.09.2013 passed in Cr. Misc. No. 33682 of 2010 and the said complaint had been filed with allegation that friendly loan taken by the petitioner was not being returned by him and after quashing of the same, he again filed the present complaint case, so the present complaint is malicious in nature. He submits that even the description and make of the newly purchased mobile number was neither given in the complaint nor in the enquiry even the purchase receipt was not produced moreover none of the independent witness at the enquiry stage has identified any of the accused persons and this complaint was filed after delay of more than a week without any cogent reasons.

5. Contrary to that, learned counsel appearing on behalf of the O.P. No. 2 submits that though description of the mobile is not given on the receipt but the allegations do disclose offence.

6. Having considered rival submissions and on perusal of record, the Court finds that repeatedly complainant is filing the case against the petitioner, earlier of taking friendly loan and now of



assaulting and snatching his mobile and money, so the complaint case appears malicious in nature and in enquiry neither the description of the make of the newly purchased mobile is mentioned nor the purchase receipt was produced as the case of the complainant is that while he was returning back from the market after purchasing new mobile, the present occurrence was committed. So continuation of the criminal proceeding, in backdrop of facts of the case, would be an abuse of the process of the court, so the entire criminal proceeding inclusive of the cognizance order dated 06.08.2014 passed by Mr. S.P.Mourya, Judicial Magistrate, 1st Class, Sasaram in Complaint Case No. 824 of 2013/285 of 2013, is hereby quashed.

7. The application stands allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.12.2017
Transmission Date	22.12.2017

