

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20603 of 2011

- =====
1. Ram Ashish Sharma S/O Sajan Sharma
 2. Ram Sharan Sharma
 3. Ram Kumar Sharma Both Sons of Ram Uchit Sharma
 4. Ram Uchit Sharma Son of Late Amir Sharma, All are residents of Village Deshari Karakh Chandan Tola P.S. Bibhutipur, District-Samastipur.

.... Petitioners

Versus

1. The State of Bihar
2. Ram Lakhan Sharma Son of Late Saudagar Sharma resident of Village Deshari Karakh P.S. Bibhutipur, District- Samastipur.

.... Opposite Parties

=====

Appearance :

For the Petitioners : Mr. Gopal Pandey, Advocate

For the Opposite Parties : Mr. P.Kr.Pandey (APP)

=====

CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

9 05-09-2017 The instant Criminal Miscellaneous has been filed for quashing the order dated 02.05.2011 passed by Sri L.K. Mishra, the then Judicial Magistrate, 1st Class, Rosera in C.R. No. 75 of 2011, whereby and whereunder, prima-facie offence under sections 323 and 379 of the I.P.C. has been found to be made out against all the accused persons including the petitioners and directed to issue summons against them.

2. The Opposite party no.2 Ram Lakhan Sharma filed complaint case no. 75 of 2011 in the court of Additional Chief Judicial Magistrate, Rosera, alleging therein, that on the date of occurrence there was Saradh in the panchayat and he was going



to attend Bhoj but the accused persons caught him at the road and started beating him by lathi, danda and fists and Ram Sharan Sharma took Rs. 500/- from the pocket, Ram Uchit Sharma snatched bicycle, Ram Kumar Sharma took away lota and Ram Sharan Sharma snatched wrist watch, all the accused persons assaulted him and torn his shirt and they stated that why he was going to eat Bhoj at the house of their enemy. The witnesses and others assembled there and he was saved. Panchayati was done but the accused persons did not attend in the said Panchayati. The complainant went to the police station where they refused to entertain the case, hence this case.

3. The complainant was examined on the solemn affirmation and thereafter four enquiry witnesses have been examined and after considering the statement of the complainant on the solemn affirmation and the statements of four enquiry witnesses the order dated 02.05.2011 has been passed.

4. The petitioners being aggrieved and dissatisfied with the said order challenged the legality, correctness and propriety of the same on the ground that the enquiry witnesses are not reliable, it is totally a false case, one of the enquiry witness, namely, Sagar Sharma was naming all these accused persons after seeing the palm where he has written the names of the accused



persons. The learned Magistrate has made observation to this effect and as such the impugned order passed is fit to be quashed. The enquiry witnesses are not the independent witnesses and they are interested one.

5. The learned A.P.P. on the other hand, submits that there is no illegality, incorrectness or impropriety in the impugned order. The learned Magistrate after considering the statement of the complainant on the solemn affirmation and the statements of the four enquiry witnesses who have supported the allegation, has passed the impugned order which does not require any interference by this Court.

6. Having considered the submissions urged at the Bar, going through the record and noticing that the complainant in his statement on the solemn affirmation and the four enquiry witnesses have supported the allegation as made out in the complaint petition, there is nothing on the record to show that there was previous enmity between the parties, there is nothing on the record by which it can be presumed that the petitioners have been falsely implicated in this case, the impugned order appears quite, legal, proper and correct and there is no need for any interference by this Court.

7. In the result, the impugned order is hereby



confirmed and finding no merit in this Criminal Miscellaneous,
the same is hereby dismissed.

(Jitendra Mohan Sharma, J)

Abhay/-

U		T	
---	--	---	--

