

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25044 of 2014

Arising Out of PS.Case No. -1006 Year- 2013 Thana -COMPLAINT CASE District- KISHANGANJ
=====

Md. Sami Akhtar @ Sami Akhtar S/o Late Md. Qurban Ali Resident of
Asma Manzil, Mohalla Ponibagh, Town, Police Station and District
Kishanganj (Accused).

.... Petitioner

Versus

1. The State of Bihar.
2. Ghulam Mustafa S/o Late Sharfuddin (Complainant) No.2. is resident of
Village Mohiuddinpur, Police Station and District Kishanganj.

.... Opposite Parties
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Appearance :

For the Petitioner : Mr. Najmul Hoda, Advocate
For the Opposite Parties : Mrs. Rita Verma, APP
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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

3 28-06-2017 Heard both sides.

2. The petitioner seeks quashing of the order dated 13.02.2014 passed by Judicial Magistrate, Ist Class, Kishanganj in Complaint Case No.1006 of 2013 whereby and whereunder the Magistrate finding sufficient materials against the petitioner for the offence under Section 323, 341 and 379 of the IPC ordered for issuance of summons.

3. The facts in brief is that the Opposite Party no.2 filed a complaint case on the file of CJM, Kishanganj alleging inter-alia that his son and nephew had acquired four and half bigha land by virtue of several registered sale deeds and came in possession thereof. The complainant on 20.08.2013 went over his land along



with his labourers where this petitioner along with 15-20 unknown armed with deadly weapon came and forbade the complainant from ploughing the land. The complainant raised protest whereupon they abused and assaulted the complainant and demanded two lacks rupees as *Rangdari*. They snatched gold chain and cash amount Rs.1500/- from his possession. The case record was transferred to the court below for inquiry. In course of inquiry, the complainant and his three more witnesses supported the allegation made in the complaint petition. The court below as per impugned order took cognizance and ordered for issuance of summons.

4. The learned counsel for petitioner submits that the petitioner is a government teacher aged about 43 years. The main dispute relates to landed property. The petitioner has his land under plot no.986 and on the date of occurrence when he was erecting the boundary wall, the petitioner came and forbade him and on protest they attempted to kill. They also demolished some of the portion of the boundary wall. The petitioner lodged the police case vide Kishanganj P.S.Case No.361 of 2013, on the same day i.e., 20.08.2013. The Opposite Party No.2 after three days of institution of police case, filed the present complaint case only to counter the case of the petitioner. The court below took



cognizance against the petitioner in mechanical way without applying its mind so the order is fit to be quashed.

5. The learned APP while opposing the submission of petitioner stated that in course of inquiry the complainant and the witnesses have supported the allegation. The learned Magistrate found sufficient material against the petitioner and accordingly ordered for issuance of summons.

6. On perusal of impugned order as well as materials on record, I find that there is specific allegation that on the date of occurrence, the petitioner along with other co-accused went over his land. They abused and assaulted the complainant and also demanded *Rangdari*. The complainant on solemn affirmation and other witnesses supported the said fact. The court below has rightly taking cognizance against the petitioner.

7. In view of discussions made above, I do not find any merit in the application. Accordingly, this application is dismissed.

(Sanjay Kumar, J)

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