

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17892 of 2014

Arising Out of PS.Case No. -533 Year- 2013 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Jitendra Kumar
2. Ranjan Kumar Both are sons of Nand Kishore Mahton
3. Dilip Kumar Azad
4. Ranjit Kumar 3, 4 are sons of Late Ramji Mahton null
5. Santosh Kumar
6. Chandra kumar 5, 6 are son of Ram Subran Mahton
7. Munchun Kumar S/o Nand Lal Mahton
8. Guddu Kumar S/o Ram Jiwan Mahton All are resident of village- sonaru, P.S-
Fatuha, Distt- Patna.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Ram Sewak Singh S/o Ganga Gope resident of village Samaru, P.S- Fatuha,
Distt- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Tilak Sao, Adv.
For the Opposite Party No. 2 : Mr. Raj Kumar, Adv.
For the State : Mr. T. N. Thakur, APP.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 11-10-2017

1. Heard learned counsel for the petitioners and the State.

2. This petition has been filed for quashing the impugned order dated 24-03-2014 passed by learned Sub Divisional Judicial Magistrate, Patna City in Complaint Case No. 533 of 2013 by which and whereunder, the learned Magistrate after holding inquiry, found prima facie case against the petitioners under Section-379 of the Indian Penal Code.

3. It has been submitted that Title Suit is also pending



between the parties. The proceeding u/S 144 of the Cr.P.C. has also been initiated for the aforesaid piece of land.

4. Vakalatnama has been filed on behalf of opposite party No. 2 but none appeared at the time of hearing of this petition.

5. In the complaint, it is alleged that on the date of occurrence, all these petitioners forcibly cut away the paddy crops from five Kathas of land of the complainant. The police did not register the case. Thereafter, instant complaint case has been filed.

The complainant was examined on SA and statement of three witnesses were also recorded. The S.A. of the complainant and the statement of the three witnesses recorded during inquiry has been annexed as Annexure-2 series to this petition.

6. From perusal of the SA of the complainant and statement of three witnesses, it appears that they have supported the case.

7. From the submission made by the petitioners, it appears that for the same piece of land, a proceeding u/S 144 of the Cr.P.C. has also been initiated. Title suit is also pending between the parties. As such, parties are on litigating terms.

8. The court below is only required to see prima facie case at the time of holding enquiry on the basis of S.A. of complainant and statement of witnesses recorded during inquiry.

9. The counsel for the petitioners has not been able to point



out any illegality in the impugned order passed by the court below.

10. Accordingly, this court does not find any illegality in the impugned order dated 24-03-2014 passed by learned Sub Divisional Judicial Magistrate, Patna City in Complaint Case No. 533 of 2013.

11. This application is accordingly disposed off with liberty to petitioners to raise all the points as raised in this application at the time of framing of charge in the court below which shall be considered by the court below in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	17-10-2017
Transmission Date	17-10-2017

