

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40980 of 2014

Arising Out of PS.Case No. -685 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Sidhi Singh @ Sidheshwar Pd. Singh S/o Late Ram Janam Singh
2. Binod Singh @ Binod Kr. Singh S/o Sidhi Singh @ Sidheshwar Pd. Singh
3. Promod Singh @ Pramod Kr. Singh, S/O Sidhi Singh @ Sidheshwar Pd. Singh
4. Rahul Singh @ Rahul Kumar S/o Binod Singh
5. Pintu Singh @ Saurav Kuamr S/o Pramod Singh @ Pramod Kr. Singh
All are resident of village- Rana Bigha, P.O.- Rana Bigha, P.S.- Barh, Distt.- Patna
..... Petitioner/s

Versus

1. The State of Bihar
2. Pramila Devi, W/o Triloki Singh, resident of Village - Rana Bigha, P.O. - Rana
Bigha, P.S. - Barh, Distt.- Patna
..... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Din Bandhu Mishra, Advocate.
For the State : Mr. Brijendra Nath Pandey, A.P.P.
For the Opposite party no.2: Mr. Shailendra Kumar Jha and
Mr. Niranjan Prasad Singh, Advocates.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

CAV JUDGMENT

Date: 13-10-2017

Heard learned counsel for the petitioners, learned counsel
for the opposite party no. 2 and learned A.P.P. for the State.

2. The petitioners are seeking quashing of the order dated
25.07.2014 passed by learned Judicial Magistrate 1st Class, Barh,
Patna in Complaint Case No. 685(C)/2012 by which the learned
Magistrate has refused to discharge the accused – petitioners in the
present case.

3. Learned counsel for the petitioners submits that the case



is false and malicious prosecution of the petitioners. Referring to the documents enclosed with the petition, he submits that both the parties are fighting a civil litigation, which arose out of Measurement Case no. 07/2013-2014, and because of the said land dispute which had cropped up earlier, the present complaint case was filed just to harass these petitioners. Learned counsel also submits that the petitioner no. 1 had earlier filed an information petition in the court of the learned Additional Chief Judicial Magistrate, Barh (Annexure-4 to the present application) and had informed the learned court that the opposite party is likely to lodge a false case against him. It is stated that the petitioner no. 1 is a retired engineer living in his village with family members after retirement. Learned counsel assails the order dated 25.07.2014 (Annexure-1) on the ground that the same has been passed by the learned Magistrate without applying his mind to the materials available on the record.

4. On the other hand, learned counsel representing the opposite party no. 2 as well as learned A.P.P. for the State submits that the impugned order is a well discussed and reasoned order passed by the learned Magistrate. They point out that from the impugned order itself it will appear that the learned Magistrate has considered the depositions of the witnesses, who were produced at the stage of evidence before charge in the complaint case. Earlier, vide order dated



28.01.2013 cognizance was taken and summons were issued to the accused for the offences under Sections 323/34 and 380 of the Indian Penal Code. At the stage of consideration of the application for discharge, the learned Magistrate went through the depositions of CW1 Triloki Prasad Singh, CW2 Munmun Singh and CW3 Parmila Devi (complainant). There was a prayer on behalf of the complainant to add Section 504 IPC and Section 27 of the Arms Act also which the learned Magistrate refused because the evidences were not consistent. Learned Magistrate, however, found that Section 341 IPC may be added as the evidences disclosed that the complainant and her witnesses supported the story of assault and theft.

5. I have considered the materials available on the record and the submissions advanced on behalf of the parties. The submissions of the learned counsel representing the opposite party no. 2 and the learned A.P.P. for the State have got much force. The impugned order is a well reasoned and discussed order. It shows that the complainant and her witnesses, who deposed at the time of evidence before charge, have supported the allegations and if the learned Magistrate has come to a conclusion that there are sufficient materials to frame charge under Sections 341, 323 and 380/34 IPC against the accused persons, no fault may be found with the same. It is well settled that a charge may be altered at any stage of the



proceeding.

6. There is no illegality or infirmity in the impugned order.

The application is thus dismissed.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
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