

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.13517 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- MADHEPURA

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Bhavnath Jha S/O Kamal Nath Jha Resident Of Village- Koilakh, Police Station-
Raj Nagar, District- Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar
2. Chandra Nand Thakur S/O Late Kapileshwar Thakur Resident Of Village-
Mailam, Police Station- Andhratharhi, District- Madhubani

.... Opposite Party/s

WITH

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Criminal Miscellaneous No. 16845 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- MADHEPURA

- =====
1. Pawan Rekha Devi Wife Of Devchandra Jha Resident Of Village : Mailam,
Police Station : Andhratharhi, District : Madhubani
 2. Manoj Kumar Jha Son Of Devchandra Jha Resident Of Village : Mailam, Police
Station : Andhratharhi, District : Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar
2. Chandranand Thakur Son Of Late Kapileshwar Thakur Resident Of Village :
Mailam, Police Station : Andhrathari, District : Madhubani

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.13517 of 2012)

For the Petitioner/s : Mr. Prafull Chandra Jha, Advocate

For the Opposite Party/s : Mr. B.N. Pandey, APP

(In Cr.Misc. No.16845 of 2012)

For the Petitioner/s : Mr. Bimal Kumar, Advocate

For the Opposite Party/s : Dr. Mayanand Jha, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 07-09-2017

Heard learned counsel for the parties.

2. The petitioners are accused in complaint case bearing



C.R. No.503 of 2005 corresponding to Trial No.1724 of 2012. In the aforesaid complaint case after inquiry, under Section 202 Cr.P.C., the learned Court-below took cognizance and issued process against the petitioners to face the trial. That order became and remained final as the same was not challenged. Thereafter, after conclusion of the evidence before charge, the petitioners filed a petition for discharge on the ground that no case is made out against the petitioners. By the impugned order dated 24.02.2012, the prayer for discharge was refused, which is under challenge in this application.

3. According to complaint petition, for land dispute the petitioners allegedly committed assault and theft in the house of the informant. The aforesaid allegation is supported by the witnesses examined in the case.

4. Submission of the learned counsel for the petitioner is that a civil suit is going on between the parties and in the background of the civil suit, completely a false and concocted criminal case was lodged just to pressurize the petitioners, which is an abuse of the process of the court and should not be allowed.

5. The law is well settled that the consideration of material at the stage of framing of the charge is the same which is at the stage of issuance of process. At this stage, the Court cannot examine the trustworthiness of the allegation considering the



background of the allegation. The probable defence also cannot be looked into, which has been raised in this case that after disposal of the civil suit, the complainant went upon for institution of the criminal case. The entire claim of the petitioners can be adjudicated at the stage of trial.

6. Since, prima facie offences have been disclosed in the complaint petition as well as evidence of the witnesses; I do not think it appropriate to interfere with the impugned order. Hence, both the cases stand dismissed as devoid of merit.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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