

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.2989 of 2012

Arising Out of C-II Case no. 252 Year- 2006 District- PURNEA

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1. Rajendra Yadav S/o Late Raghuni Yadav Resident of Village- Shishwa, P.S.- Barhara Kothi, District- Purnea.
 2. Shambhu Yadav S/o Rajendra Yadav Resident of Village- Shishwa, P.S.- Barhara Kothi, District- Purnea.
 3. Pankaj Yadav S/o Rajendra Yadav Resident of Village- Shishwa, P.S.- Barhara Kothi, District- Purnea.
 4. Roushan Yadav S/o Dinesh Yadav Resident of Village- Shishwa, P.S.- Barhara Kothi, District- Purnea.

.... Petitioner/s

Versus

1. The State of Bihar
2. Upendra Ram S/o Late Bhuwan Ram, R/o Village Shishwa, P.S.- Barhara Kothi, District- Purnea.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kumar Uday Singh

For the Opposite Party/s : Mr. Humayu Ahmad Khan, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 31-07-2017

This criminal miscellaneous application under Section 482 of the Cr.P.C. has been filed to quash the order dated 18.12.2006 passed by learned Chief Judicial Magistrate, Purnea in C-II no. 252 of 2006 whereunder the learned C.J.M. finding prima facie case for the offence under Section 504 of the I.P.C. summoned the petitioners to face the trial.

2. Heard both sides.

3. It has been submitted that the O.P. no. 2 had lodged an F.I.R.



against the petitioners vide Barhara P.S. Case no. 25 of 2002 for the offence under Sections 307 and other ancillary Sections of I.P.C. and Section 3(X)(XI), 3(XII) of SC/ST Act. The said case was committed and after trial the petitioners were acquitted by 1st Addl. Sessions Judge-cum-Special Judge, SC/ST Act, Purnea as per Judgment dated 05.05.2011 passed in Special Case no. 12 of 2003. The present case has been registered on the written application of the O.P. no. 2 submitted before Superintendent of Police, Purnea in *Janta Darbar*. The S.P. Purnea directed the Officer-in-Charge to inquire and submit report. In course of inquiry, a report was submitted to the effect that these petitioners used to hurl threat and put pressure to compromise the earlier case. It has been further submitted that the earlier case which is genesis of the present case, after trial has ended in acquittal and so the prosecution of the petitioners for the offence under Section 504 of the I.P.C. would amount to abuse of the process of the Court. The learned Magistrate has not applied its judicial mind while passing the impugned order and so the impugned order taking cognizance is fit to be quashed. The learned APP opposed the submissions.

4. On perusal of the written report, police report and the impugned order, it appears that the O.P. no. 2 and the petitioners are resident of same place. The petitioners were put on trial in Special Case no. 12 of 2003 which ended an acquittal. The present case has been



registered for the second occurrence which on inquiry was found true. The petitioners filed Criminal Revision no. 386 of 2010 against the cognizance order which after hearing was dismissed as per well discussed and reasoned order dated 28.11.2011.

5. In view of the above facts, I do not find any merit in this criminal miscellaneous application. As such, this Cr. Misc. application is dismissed.

(Sanjay Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02.08.2017
Transmission Date	02.08.2017

