

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.52447 of 2013**

Arising Out of PS.Case No. -1720 Year- 2011 Thana -VAISALI COMPLAINT CASE District-  
VAISHALI(HAJIPUR)

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1. Feku Rai Son Of Late Jhapas Rai Resident Of Village - Gabsara, P.S. Kudhni, District - Muzaffarpur  
2. Birju Rai Son Of Feku Rai Resident Of Village - Gabsara, P.S. Kudhni, District - Muzaffarpur  
3. Bharat Rai Son Of Feku Rai Resident Of Village - Gabsara, P.S. Kudhni, District - Muzaffarpur  
4. Amar Kumar Son Of Feku Rai Resident Of Village - Gabsara, P.S. Kudhni, District - Muzaffarpur  
5. Minta Devi Wife Of Feku Rai Resident Of Village - Gabsara, P.S. Kudhni, District - Muzaffarpur

.... .... Petitioner/s

Versus

1. The State Of Bihar  
2. Baskit Baitha Son Of Late Garbhu Baitha Resident Of Village - Patua, P.S. Kudhni, District - Muzaffarpur

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Naresh Chandra Verma

For the Opposite Party/s : Mr. Ram Shankar Das ( Spl.App))

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**CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA**  
**ORAL ORDER**

2      19-01-2017      Heard the parties.

The petitioners have filed the present application under Section 482 of the Cr. P.C. for quashing of the order, dated 05.08.2012 and 06.08.2012, passed by learned S.D.J.M (West) Muzaffarpur in Complaint Case No. 1720 of 2011 by which the cognizance for offence punishable under Section 147, 323, 379 and 504 of the Indian Penal Code has been taken against the petitioners.



Prosecution case in brief is that opposite party no. 2 lodged a complaint before the Officer in Charge SC/ST police station, Hajipur stating therein *inter alia* that accused persons have encroached his land and on protest they abused and assaulted him and his wife by lathi, danda and snatched a golden chain. They also called him by his caste name.

On the basis of the aforesaid SC/ST Hajipur P.S. Case No. 540 of 2010, was registered for offences punishable under Sections 147, 149, 323, 379, 504 and 506 of the Indian Penal Code and under Section 3(1) (x)(v) of SC/ST (Prevention of Atrocities) Act and police after investigation has filed the final form stating that the dispute is of civil nature and did not find the story of assault and theft true.. Thereafter on the basis of the protest petition filed by the opposite party no. 2, the learned Magistrate proceeded with the protest petition and after enquiry the learned Magistrate vide order, dated 05.08.2012 and 06.08.2012, finding a *prima facie* case against the petitioners under Section 147, 323, 379 and 504 took cognizance, which is under challenge in the present application filed by the petitioners.

It has been submitted on behalf of the petitioners that the case has been investigated by the police and the police has also found that it is a case of civil dispute and has denied the story of



assault and theft and accordingly the learned Magistrate ought not have issued processes against these petitioners for offences punishable under Sections 147, 323, 379 and 504, which is clearly an abuse of process of Court and fit to be quashed.

Learned counsel appearing on behalf of the State has opposed the application on the ground that there is no illegality in the order issuing process as after the submission of final form, learned Magistrate proceeded on the basis of the protest petition and after enquiry found a *prima facie* case against the petitioners under Sections 147, 323, 379 and 504 of Indian Penal Code and, therefore, there is no merit in the present application, which deserves to be dismissed.

Having heard both sides, in view of the fact that learned Magistrate proceeded on the basis of the protest petition and after enquiry he has found a *prima facie* case against the petitioners under Sections 147, 323, 379 and 504 of the I.P.C., and issued processes against the petitioners and as such there is no illegality in the said order. However, learned counsel for the petitioners could not point out that no offence on the basis of the materials collected during enquiry, under the above mentioned Sections of I.P.C, is made out. As regards the submission of learned counsel for the petitioner that the police has found it a case of civil dispute,



as such the learned Magistrate ought not to have issued processes against the petitioners, same cannot be a ground for quashing of the impugned order as once the learned Magistrate proceeded with the protest petition and finding the case true against the petitioners under the aforesaid Sections of I.P.C, he is not required to look into the final form submitted by the police and he is not binding with the finding of the I.O. Hence this Court does not find any infirmity in the order, dated 05.08.2012 and 06.08.2012, passed by learned S.D.J.M (West) Muzaffarpur in Complaint Case No. 1720 of 2011.

Accordingly the present application has no merit and the same is hereby dismissed.

**(Vinod Kumar Sinha, J)**

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