

# IN THE HIGH COURT OF JUDICATURE AT PATNA

## Criminal Miscellaneous No.22492 of 2013

Arising Out of PS.Case No. -314 Year- 2008 Thana -PURNIA COMPLAINT CASE District-  
PURNIA

- =====
1. Sanjay Giri @ Sanjay Kumar S/O Sri Singheshwar Nath Giri Resident Of Mohalla Sipahi Tola, P.S.- K. Hat, Dist.- Purnea
  2. Amrit Pal Singh S/O Late Basant Singh Resident Of Aitiyana Bus Company, Taxi Stand Road, P.S.- K. Hat, Dist.- Purnea

.... .... Petitioners

Versus

1. The State Of Bihar
2. Md. Munna S/O Md. Issa Resident Of Mohalla- Sahaban Tola, P.S.- K. Hat, Dist.- Purnea

.... .... Opposite Parties

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**Appearance :**

For the Petitioners : Mr. Amit Kumar Anand, Advocate  
For the Opposite Party No.2 : Mr. None  
For the State : Mr. Humayu Ahmad Khan, APP

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**CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR**

**ORAL JUDGMENT**

**Date: 11-07-2017**

Heard.

2. This is an application under Section 482 of the Cr.P.C praying therein to quash the order dated 05.02.2013 passed by CJM, Purnea in Complaint Case No.314 of 2008 taking cognizance under Section 365/120B of the IPC against the petitioners.

3. The Opposite Party No.2 filed a complaint case on the file of CJM, Purnea alleging inter-alia that on 29.01.2008 at about 11 P.M. petitioner no.1 along with 12 unknown persons came and assaulted his father and kidnapped him by Maruti van bearing registration no.W.B-74/3350. The father of the complainant was watchman in Atiyana company and the accused petitioner no.1 was manager of petitioner no.2 and on account of property dispute between the two co-sharers they had committed the crime.

4. The learned counsel for the petitioners submits that the



occurrence took place on 29.01.2008 but the complaint case was filed on 04.02.2008. The statement of complainant was recorded on 30.12.2008. The victim of this case returned and back on 08.02.2008 and his statement was recorded on 02.02.2009. The complainant in court question at the time of giving statement on S.A has stated that he had not signed the complaint petition. The cognizance has been taken against the material on record so is fit to be quashed.

5. The learned APP on the other opposed the submission.

6. On perusal of the impugned order and the statement complainant on S.A. and other witnesses including the victim, I find that on the date of occurrence, the petitioner no.1 along with other co-accused assaulted and kidnapped his father. The witnesses have stated that a property dispute was going on between the petitioner no.2 and the master of the victim. The Magistrate finding prima-facie case has rightly taken cognizance under Section 365 of the IPC against the petitioner. The defence of the petitioners shall be considered at the time of the trial.

7. In view of the above fact, I do not find any merit in the criminal miscellaneous application. Accordingly, this application is dismissed.

**(Sanjay Kumar, J)**

B.Kr./-

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