

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9270 of 2015

Arising Out of PS.Case No. -249 Year- 2011 Thana -BHOJPUR COMPLAINT CASE District-
BHOJPUR

- =====
1. Kanchan Devi wife of Late Raghu Nath Roy
 2. Seema Devi wife of Dhurub Nath Roy
 3. Renu Devi wife of Suraj Nath Roy All are residents of Mohalla- Pakri,
P.S.- Nawada Arrah, District- Bhojpur

.... Petitioners

Versus

1. The State of Bihar
2. Dr. Jitendra Shukla son of Late Jagdish Shukla, resident of Mohalla-
Maharana Pratap Nagar, Police Station- Arrah Nawada, District- Bhojpur

.... Opposite Party

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Appearance :

For the Petitioners	:	Mr. Girish Chandra Jha Mr. Kumar Gautam
For the State	:	Mr. Ajay Kumar (App)
For O.P. No. 2	:	None

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

3 06-12-2017 Heard learned Counsel for the petitioners as well as the

learned Counsel for the State. No one appears on behalf of the

Opposite party No. 2.

The petitioners seek quashing of the cognizance order dated
8.5.2013 passed by the Judicial Magistrate, 1st Class, Ara in Complaint
Case No. 249 (C) of 2011, thereby taking cognizance of the offence
under Sections 147, 323 and 504 of the IPC.

The prosecution case in brief is that the accused persons
were trying to encroach the rasta which stands by the side of the house
of Krishna Sharan Mishra. When Krishna Sharan Mishra objected then
all the accused persons started abusing and chasing him in order to



assault. The complainant also intervened, so the accused persons also chased him and entered into his house, assaulted him and other female inmates of the house, committed theft. He informed the police but the police made attempt for compromise and the case was not registered.

Learned Counsel for the petitioners submits that all the petitioners are ladies. There is no specific allegation against them in the complaint making allegation of committing any specific overt act. Even the complainant on S/A and other enquiry witnesses have not made any statement with regard to these petitioners of committing any assault or abusing the complainant, besides this Krishna Sharan Mishra was also not examined. So the genesis of the of the occurrence that the accused persons first tried to assault and all the accused persons encroached upon the land used as rasta by the local people. It is also submitted that one of the accused has lodged FIR on 21.2.2011 against the complainant and Krishna Sharan Mishra with regard to the same dispute and the present complaint case was filed on 24.2.2011, though the alleged date of occurrence is said to be 3.2.2011.

Learned Counsel appearing on behalf of the State submits that these accused persons are also named in the complaint.

Having considered the rival submission and on perusal of the record it appears that there is no specific allegation of any kind of overt act relating to abusing or assaulting the complainant or anybody stated either in the complaint or by any enquiry witness except the name of the petitioners in the column of the accused persons in the



complaint, there is no material against them showing any prima facie offence being made out against petitioners.

So, the entire criminal proceeding of Complaint Case No. 249(C) of 2011 inclusive of the cognizance order dated 8.5.2013 pending in the court of Judicial Magistrate, 1st Class, Ara only with respect to these petitioners is hereby set aside.

The application stands allowed.

(Arun Kumar, J.)

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