

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.36115 of 2014**

Arising Out of PS.Case No. -2381 Year- 2011 Thana -WEST CHAMPARAN COMPLAINT  
District- WESTCHAMPARAN(BETTIAH)

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1. Partima Singh W/o Ranjan Kumar Singh  
2. Ranjan Kumar Singh S/o Shailendra Kumar Singh  
3. Shailendra Kumar Singh S/o Late Ramdeo Singh  
4. Surendra Prasad S/o Ramashish Raut  
All Resident of Village Parsa Tola, P.S. Majhauria, District West Champaran.  
5. Gopinand Pandey S/o Late Jagan Nath Pandey Resident of Village Baithania,  
P.S. Majhauria, District West Champaran.

.... .... Petitioner/s

Versus

1. The State of Bihar.  
2. Bacha Babu S/o Sanaullah Resident of Village Parsa Tola Dumaria, P.S.  
Majhauria, District West Champaran.

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

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**Appearance :**

For the Petitioner/s : Mr. Ranjan

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

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

**ORAL JUDGMENT**

**Date: 15-09-2017**

This application under Section 482 of the Code of Criminal Procedure has been filed to quash the order dated 07.07.2014 passed by the learned Judicial Magistrate, 1<sup>st</sup> Class, Bettiah in Complaint Case No. 2381 C of 2011 whereby and whereunder the learned Magistrate finding prima facie case for the offence under Section 379 of the Indian Penal Code, summoned the petitioners.

2. Heard both sides.

3. The Opposite Party No. 2 filed a Complaint Case No. 2381 of 2011 on the file of the learned C.J.M., Bettiah, West



Chamapran alleging inter alia that on 18.09.2011, these petitioners unlocked one of the room of PACCS godown and committed theft of his articles worth Rs. 13,000/-. The matter was inquired under Section 202 of the Cr.P.C. and the learned Magistrate finding prima facie case for the offence in question, summoned the petitioners.

4. On perusal of complaint petition and documents on record, I find that the accused No. 1 was Block Agricultural Officer posted at Majhaulia, West Champaran. The petitioner No. 1 was elected as Chairman of PACCS defeating one Anil Kumar Singh. The said election was challenged by filing a PACCS Election Case No. 26 of 2009 by one Surendra Prasad before the Joint Registrar, Cooperative Societies Tirhut Division, Muzaffarpur. The case was decided on 17.08.2011 and the petitioner No. 1 Smt. Partima Singh was declared elected chairman of PACCS. The erstwhile chairman did not make over charge and therefore, S.D.O., Bettiah ordered Sri Awadhesh Kumar Singh (accused No. 1) to prepare inventory of records and articles kept in the godown of PACCS vide Memo No. 435 dated 28.08.2011. The said Block Agricultural Officer (accused No. 1) visited at the place of godown and prepared inventory in presence of the chairman and members of PACCS as per inventory memo. The complainant claims to be an agent of erstwhile chairman of the PACCS. He also claims that he had kept some of his personal



belongings in the godown of PACCS although he had no authority to keep personal articles in the godown. It appears that the allegation has been levelled only to make out a case of theft. The articles were seized as per list in presence of the chairman and its members and so it cannot be termed as theft. In inventory, the Block Agricultural Officer has reported that no records relating to PACCS was available in the godown or room. The above materials on record prima facie shows that the present complaint case has been filed at the instance of erstwhile chairman of the PACCS in order to wreck vengeance. The criminal prosecution of these petitioners in such circumstance appears to be misuse of process of Court.

5. This application is therefore allowed and the order dated 07.07.2014 passed by the learned Judicial Magistrate, 1<sup>st</sup> Class, Bettiah in Complaint Case No. 2381 C of 2011 as well as the criminal prosecution of these petitioners is hereby quashed.

**(Sanjay Kumar, J)**

ajay gupta/-

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