

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18376 of 2014

Arising Out of PS.Case No. -1496 Year- 2013 Thana -BHAGALPUR COMPLAINT CASE District-
BHAGALPUR

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1. Pankaj Kumar Singh Son of Anil Kumar Singh
2. Anil Kumar Singh Son of Uday Kant Singh Both are the resident of village-
Jagarnathpur, P.S.- Sajour, District- Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Kiran Devi W/o Sunil Singh resident of village- Jagarnathpur, P.S.- Sajour,
District- Bhagalpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 08-11-2017

1. Heard learned counsel for the petitioners and the State.

2. This application has been filed for quashing the order dated
13-02-2014 passed by Sri Atul Veer Singh, learned Judicial Magistrate,
Bhagalpur in Complaint Case No. 1496 of 2013 by which, the learned
Magistrate after holding inquiry u/S 202 Cr.P.C. has found prima
facie against the petitioner for the offence under Sections-323, 379,
504, 448 and 34 of the IPC.

3. It has been submitted that petitioner No. 1 is son and
petitioner No. 2 is father of petitioner No. 1.

4. The instant case has been filed due to dispute for flow of



water. There was no injury caused to anybody. General and omnibus allegation has been levelled against the petitioners.

5. The complainant alleged in the complaint that on the date of occurrence at about 10.00 am a quarrel took place between the complainant and the petitioners for flow of water and while opposite party No. 2, was going to her house after concluding her work, the petitioners entered into the house. The petitioner No. 1 has some chemical in bottle which was filled up with water. The complainant raised hulla, then both these petitioners started to assault her. The daughter of the complainant came to rescue her then she was also assaulted by the petitioners. It has further been alleged that petitioner No. 1 snatched chain worth Rs. 20,000/- and petitioner No. 2 snatched wrist watch. It is further alleged that petitioners assaulted the complainant and her daughter with Lathi, Danda.

6. The court below after holding enquiry u/S 202 of the Cr.P.C. found prima facie case against these petitioners for the offence under Sections- 323, 379, 504, 448 and 34 of the IPC.

7. In course of hearing of this petition, the counsel for the petitioners has filed copy of statement of two witnesses recorded during enquiry namely Sunil Kumar and Deepa Singh which is kept on record. Both these witnesses have levelled general and omnibus allegation against the petitioners. There is no mention in their



statement that any injury has been caused and injured were medically examined.

8. From perusal of the impugned order, it appears that the court below has passed the order in mechanical manner holding that after looking into SA of the complainant and the statement of witnesses, prima facie case is made out against the petitioners.

9. The court below has not discussed in the impugned order about the material which he found during S.A. of the complainant and statement of witnesses during enquiry.

10. This court is of the view that finding prima facie case against a person is serious matter. The Magistrate should not pass such order in mechanical manner. Learned Magistrate must give reasons and discuss about the materials which he found during enquiry on the basis of which he found prima facie case against the accused persons.

11. Therefore, the impugned order passed by learned Magistrate in such mechanical manner in the instant case shows non-application of mind by him. Accordingly, the impugned order passed by the learned Magistrate is not in accordance with law.

12. Therefore, the continuance of criminal proceeding against the petitioners will be abuse of the process of court.

13. As such, the impugned order dated 13-02-2014 passed in



Complaint Case No. 1496 of 2013 along with entire criminal proceeding against the petitioners is quashed.

13. This Cr. Misc. Application is ***allowed.***

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	21-11-2017
Transmission Date	21-11-2017

