

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31242 of 2014

Arising out of P.S. Case No.986 Year 2013 Thana BEGUSARAI COMPLAINT CSAE District
BEGUSARAI

- =====
1. (Dr.) Nawal Kishore Pathak @ Nawal Pathak
 2. Vivekanand Pathak @ Vivek Pathak, Both sons of Sri Mantun Pathak @ Ram Prakash Pathak
 3. Rama Nand Pathak, Son of Late Rajendra Pathak
- All are residents of Village Samsa, P.S. Naokothi, District Begusarai

.... Petitioners

Versus

1. The State of Bihar
2. Rina Devi, Wife of Sri Rambabu Paswan, Resident of Village Samsa, P.S. Naokothi, District Begusarai

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Ram Sumiran Singh, Advocate
For the State : Mr. Jitendra Kumar Singh-1, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 14-07-2017

This quashing application has been preferred by the petitioners against order dated 18.06.2014, passed by learned Judicial Magistrate, 1st Class, Begusarai in Complaint Case No.986C of 2013 whereby cognizance of the offence has been taken under Sections 323, 354, 379 and 427/34 of the Indian Penal Code.

2. The present complaint is filed by Rina Devi, opposite party no.2, alleging therein that while the Circle Officer and Officer-in-Charge had come to her house for making enquiry on petition submitted by her father-in-law for mutation of the land, in the meanwhile, the accused persons also entered inside the house armed with *garasa*, spade and *lathi*, started abusing and damaging the *tatiya*



of her house, when she protested then they abused and assaulted the complainant and other family members. It is also alleged that Ramanand Pathak and Nawal Pathak tried to outrage the modesty of the complainant and thereafter all accused persons committed theft of articles kept in the house. They also snatched jewelleryes.

3. Learned counsel for the petitioners submits that on 14.05.2013 on the alleged day of occurrence, police had come to the place of occurrence for making enquiry in connection with Navrodhi Non-FIR No.36 of 2013 as an application was filed by Vivekanand Pathak, one of the petitioners, that the members of the second party were forcibly trying to occupy their land. Husband of the complainant Rambabu Paswan is also one of the members of second party. The allegation itself is patently absurd and improbable that such occurrence was committed in presence of police officials. In a proceeding under Section 107 Cr.P.C. police report dated 24.05.2013 shows that second party failed to produce any document relating to the subject of land dispute but documents relating to title of land was produced by petitioners before Circle Officer however, proceeding under Section 107 Cr.P.C. was initiated against both sides.

4. Having considered submissions of both sides and on perusal of records this Court finds that the allegation levelled by the complainant that all accused persons armed with deadly weapons,



entered inside her house while the Circle Officer and the Officer-in-Charge of the concerned area were present in her house thereafter the accused persons assaulted and tried to outrage her modesty and also committed theft of household goods appears patently absurd and improbable. Moreover there appears some land dispute between both sides so the present complaint appears malicious in nature for the reasons aforesaid, hence criminal proceeding in Complaint Case No.986C of 2013 including the order of cognizance dated 18.06.2014 passed by learned Judicial Magistrate, 1st Class, Begusarai is set aside.

5. In the result, this quashing petition stands allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.07.2017
Transmission Date	20.07.2017

