

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51558 of 2013

Arising Out of PS.Case No. -62 Year- 2012 Thana -NALANDA COMPLAINT CASE District-
NALANDA (BIHARSHARIFF)

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Awadhesh Kumar, S/O Late Hari Prasad, Resident of Village- Bajrang Bag, Police
Station- Hilsa, District- Nalanda.

.... Petitioner.

Versus

1. The State of Bihar.
2. Chandrakant Prasad, S/O Munna Prasad, Resident of Village- Bajrang Bag,
Police Station- Hilsa, District- Nalanda.

.... Opposite Parties.

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Appearance :

For the Petitioner : Mr. Umesh Prasad, Advocate.

For the State : Mr. A. Mohan, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT

Date: 09-10-2017

Heard.

2. This application, under Section 482 of the Code of Criminal Procedure, is directed against the order dated 04.07.2013 passed in Complaint Case No.62C of 2012, whereunder the court of the Additional Chief Judicial Magistrate, Hilsa, District-Nalanda, summoned the five accused, named in the complaint petition, including the petitioner, on enquiry, under Section 204 of the Code of Criminal Procedure, finding prima facie case under Sections 147, 379 and 506 of the Indian Penal Code.

3. The facts, leading to this application, are that the complainant/opposite party no.2 Chandrakant Prasad, filed Complaint



Case No.62C of 2012 in the court of the Additional Chief Judicial Magistrate, Hilsa, Nalanda, to the effect that on 23.01.2012 at about 09.00 P.M., he was talking to his friends at the guest room of his house. In the meantime, all the accused, named in the complaint petition, including the petitioner and 10-15 unknown armed with pistol and other ammunitions entered into his room and this petitioner pointing out the pistol at the complainant/opposite party no.2 made query to him about the whereabouts of his son Vinod giving threatening to kill him as he has got the case lodged by his daughter. Thereafter, the complainant/opposite party no.2 asked them as to what misdeed has been done by his son for which they have come after making plan to commit his murder, on which this petitioner and Sanjay Kumar caused injury to him through the butt of the pistol and, thereafter, all started to search his son Vinod in the house. When they did not find Vinod then on the order of this petitioner, the other accused started to commit loot in the house. In that course, this petitioner and Sanjay Kumar took away Radio, colour T.V., ornaments etc. from there. Ramdev Prasad and other accused also damaged the furnitures of the house causing loss of Rs.50,000/- to the complainant/opposite party no.2. Cause of occurrence is that the accused persons wanted to take possession of the house purchased by the complainant/opposite party no.2.



4. Learned counsel appearing on behalf of the petitioner submits that, in fact, the petitioner and the opposite party no.2 used to reside on the same building on rent. The petitioner negotiated to purchase the said building and also paid some advance to the owner of the building but, in spite of the request, the owner of the said building did not execute the sale deed. Thereafter, the petitioner filed Title Suit No.49 of 2011 for specific performance of the contract, which is pending in the court of the Sub Judge-II, Hilsa, Nalanda. In the meantime, Vinod, the son of the complainant/opposite party no.2, got managed to purchase the said building and only to put undue pressure upon the petitioner, the complainant/opposite party no.2, the father of Vinod, has lodged the present complaint case with false allegation. Moreover, the present case is a counter blast to Complaint Case No.58C of 2012 filed by the petitioner against the complainant/opposite party no.2 and others, which is pending in the court of the Additional Chief Judicial Magistrate, Hilsa, Nalanda.

5. From perusal of the impugned order, it appears that the Additional Chief Judicial Magistrate, Hilsa, District-Nalanda, on perusal of the complaint petition, solemn affirmation of the complainant/opposite party no.2 and the witnesses examined during enquiry under Section 202 of the Code of Criminal Procedure, summoned the five accused, named in the complaint petition,



including the petitioner, finding prima facie case under Sections 147, 379 and 506 of the Indian Penal Code.

6. I find no illegality in the impugned order amounting to abuse of the process of the court for interference with the same in an extraordinary jurisdiction of this Court under Section 482 of the Code of Criminal Procedure.

7. Accordingly, this application stands dismissed. However, the petitioner would be at liberty to raise all the points, as raised herein, at the appropriate stage in the trial court.

(Rajendra Kumar Mishra, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.10.2017.
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