

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9424 of 2016

Arising Out of PS. Case No.-271 Year-2014 Thana- DIGHA District- Patna

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1. Ravinesh Kumar, S/o Tapeswar Prasad Singh
 2. Kundan Kumar, S/o Tapeswar Prasad Singh
 3. Chandan Kumar, S/o Tapeswar Prasad Singh
 4. Kunal Kumar, S/o Tapeswar Prasad Singh All R/o Mohalla-
Makhdumpur, Gate No. 89, P.S. Digha, P.O.- Digha, Distt- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ranjit Singh, S/o Ram Narayan Rai, R/o Mohalla- Makhdumpur, Gate No.
89, P.S. Digha, P.O.- Digha, Distt- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar

For the Opposite Party/s : Mr. U.S.P.Singh(App)

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL ORDER

2 31-07-2018 This petition has been filed under Section 482 Cr.P.C. for quashing the order dated 22.1.2016 passed by J.M. First Class, Patna by which learned Magistrate has taken cognizance for the offences under Sections 341, 324, 504/34 of the Indian Penal Code and Section 27 of the Arms Act against the petitioners.

Learned counsel for the petitioners has submitted that there is no any allegation of specific overt act against these petitioners. Petitioner no.1 was making construction over his own land which was objected by informant for which petitioner no.1 has filed case vide Digha P.S. case no. 272 of 2014 dated 23.10.2014 against the informant and others. The land which is mentioned in the written report, in fact, does not belong to the informant rather the



same has been purchased by petitioner no.1 by a sale deed dated 15.9.2014 from one Shakuntala Devi. A photo copy of registered sale deed dated 15.9. 2014 has been annexed as Anenxure-3 to this petition. Petitioners are government servants.

Learned APP for the State, on the other hand, has submitted that police has submitted charge sheet against the petitioners after investigation. In the written report, it is alleged that on the date of occurrence the neighbour of the informant, namely, Tapeswar Prasad Singh along with petitioners armed with rod and rifle came near his house. It is further stated that the Tapeswar Prasad Singh was armed with rifle. They all had abused the informant. Later on, Tapeswar Singh fired from his rifle which hit the tenant of his house, namely Sharda Devi. It is further alleged that the petitioner no.1 was erecting pillar on the government land and when the informant forbade them from doing so, then hot exchange took place between the parties.

It is admitted position that petitioner no.1 had also filed a case vide Digba P.S. case no. 272 of 2014 dated 23.10.2014 against the informant and others for the offence under Sections 341, 323, 379, 504 and 506 of the IPC. Petitioners have enclosed the photo copy of registered sale deed vide Anenxure-3 which shows that land was purchased by petitioner no.1 from Shakuntala Devi and he was erecting the pillar on the aforesaid land. From the written report itself, it is apparent that informant has not made any claim over the



aforesaid land and altercation has taken place between the parties due to erection of pillar. It further appears from the written report that no allegation of specific overt act is levelled against these petitioners.

In such circumstances, the impugned order dated 22.01.2016 by which cognizance has been taken against these petitioners is not in accordance with law.

Accordingly, the impugned order dated 22.01.2016 passed by learned Judicial Magistrate, 1st Class, Patna in connection with Digha P.S. case no. 271 of 2014, G.R. No. 6777 of 2014 along with entire criminal proceeding against these petitioners is hereby quashed.

This Cr. Misc. petition is allowed.

(Sanjay Priya, J)

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