

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11549 of 2015

Arising Out of PS.Case No. -2098 Year- 2013 Thana -BEGUSARAI COMPLAINT CSAE District-
BEGUSARAI

- =====
1. Isharat Praveen @ Isharat Khatoon @ Ifflat wife of Md. Obais
 2. Nagma Khatoon, Daughter of Md. Akhtar
 3. Mobina @ Mobika Khatoon, wife of Md. Akhtar
 4. Sahid Khatoon, wife of Md. Anwar
 5. Md. Obais, Son of Late Md. Sohaib All Residents of village- Mubarakpur, Tola- Hasanpur, P.S.- Birpur, District- Begusarai
 6. Aafrin Khatoon, Wife of Abdul Aahad, Resident of village- Karichak, P.s. Birpur, District- Begusarai
 7. Noor Jahan Khatoon @ Nuzhat Kharoon, wife of Pappu, Resident of village- Malipur, P.S.- Garhpura, District- Begusarai. Presently residing at village- Mubarakpur, Tola- Hasanpur, P.S.- Birpur, District- Begusarai

.... Petitioners

Versus

1. The State of Bihar
2. Shamim Ahmad, son of Md. Rizwan, Residents of village- Mubarakpur, Tola- Hasanpur, P.S.- Birpur, District- Begusarai

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Sandip Kumar Gautam
For the Opposite Party No. 2: Mr. Pankaj Kumar Singh
For the State : Mr. Ajay Kumar-I, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL ORDER

3 05-01-2018 Heard learned Counsel for the petitioners as well as the

learned Counsel for the State as also the learned Counsel appearing.

The petitioners seek quashing of the cognizance order dated 5.1.2015 in Complaint Case No. 2098 (C) of 2013 passed by the Judicial Magistrate, 2nd Class, Begusarai, thereby taking cognizance under Sections 323, 504 and 34 against all the petitioners and under Section 379 IPC against Md. Obais and also for setting aside the subsequent criminal proceeding.



The brief fact giving rise to the case is that while the complainant was leaving his house in order to go to Begusarai, all the accused persons started abusing him and assaulted with fists and slaps. Ishrat Khatoon gave a *garasa*, blow but he ducked the blow so could not get injured. On alarm raised by the complainant, the witnesses turned up. In the meanwhile Md. Obais snatched the wrist watch of the complainant.

Learned Counsel appearing on behalf of the petitioners submits that due to land dispute the complainant has falsely instituted four complaint cases, including the present complaint, in a short span of ten days, both sides are agnates, Md. Obais is cousin of the complainant and rest others are female inmates of the house. Learned Counsel for the petitioners has also filed a supplementary affidavit bringing on record statement of two enquiry witnesses. It is said that enquiry witness No. 1 Md. Kamruzamma has stated that Nushrat only took out *garasa* and threatened to assault, whereas in the complaint it is stated that he made an attempt to assault by hitting with *garasa*. Further it is stated that Obais was abusing the complainant and assaulting him whereas in complaint allegation is that all accused abused and assaulted. No allegation has been made against other accused persons. Enquiry witness No. 2 says that all were assaulting and admits land dispute between both sides.

Contrary to that learned Counsel appearing on behalf of the Opposite party No. 2 submits that due to land dispute there are



several litigations between both sides including the present one.

Having considered the rival submission and on perusal of the record, it appears that within a short span of ten days, four cases were instituted by the complainant and, as submitted, same set of witnesses are witness in all the complaint cases. There is admittedly some land dispute between both sides and the statement of two enquiry witnesses and complainant's on S.A. are contrary to each other. It is alleged that seven persons assaulted together with fists and slaps but there is no injury on the person of the complainant. The court finds that the whole episode as alleged and contrary statement of enquiry witnesses make the case unbelievable as well as improbable and appears to have been fled with malicious intention to wreak personal vengeance due to the dispute, so in the opinion of the court continuance of the proceeding in the instant matter would be abuse of the process of the court. Hence entire criminal proceeding inclusive of the cognizance order dated 5.1.2015 passed in Complaint Case No. 2098 (C) of 2013 is set aside.

The application stands allowed.

(Arun Kumar, J.)

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