

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12706 of 2016

Arising Out of PS. Case No.-574 Year-2013 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. Dinesh Paswan, S/o Late Chndradeep Paswan.
 2. Umesh Paswan S/o Late Chndradeep Paswan.
 3. Vijay Paswan, S/O Garibn Paswan
 4. Ajay Paswan, S/O Garibn Paswan
 5. Rahul Paswan @ Rahul Kumar S/o Late Deeepnyan Paswan.
 6. Ganesh Paswan, S/O Ayodhya Paswan
 7. Rajesh Paswan, S/o Late Deepnyan Paswan.
 8. Mahesh Paswan, S/o Ayodhya Paswan All residents of Village-
Narma, P.S. Belaganj, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Mithlesh Paswan, S/O Indradeo Paswan, resident of of Village- Narma, P.S.-
Belaganj, District- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.
For the Opposite Party/s :		Mr. Jharkhandi Upadhyay, APP
For O.P. No.2		Mr. Shailendra Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 27-06-2018

None appears for the petitioners. None has been appearing for the last two occasions. Shri Shailendra Kumar appears for O.P. No.2 and. Learned counsel for the State is also present.

The complaint case is pending since 2013. Applicants after obtaining stay of the proceedings are not appearing even though the case is being listed consistently for the



last two weeks.

Seeking quashing of the cognizance order dated 7.9.2015 passed by the learned Judicial Magistrate, 1st Class, Gaya in Complaint Case No.574 of 2013, T.R. No.415/15 for offences under Sections 379 and 504/34 of I.P.C., this application has been filed under Section 482 of Cr.P.C.

It is the case of the complainant in the complaint case that he (Mithilesh Paswan) along with his mother is staying in Khata No. 89, Plot No.359, area 1.55 decimal. The land was given to them by the then Jamindar Maharaja Captain Gopal Sharan Singh and they are in possession of the same. On a particular date, as indicated in the police complaint lodged in Belaganj Police Station on 21.3.2013, it is stated that the applicants came there, assaulted the mother of the complainant when she protested with regard to felling of 20 to 25 Sisam trees. Logs were loaded in a truck and were being carried away after assaulting the mother when, on information, the police seized the truck, confiscated it, but when no action was taken, the complaint was filed. For the incident that took place on 12.3.2013, when the police refused to lodge the case and advised to lodge a complaint in the court, based on the allegations and the statement of the complainant and her witnesses, the complaint has been



registered.

Inter alia contending that a forged complaint has been lodged and a civil dispute due to pendency of the title suit is being converted into a criminal case only to harass the applicants.

Having heard learned counsel for the parties and on a bare reading of the complaint it is seen that the complainant has narrated the incident dated 21.3.2013 in the complaint, as indicated hereinabove, his statement and the statement of his witnesses were recorded and it is after preliminary enquiry that finding a prima facie offence made out, cognizance has been taken.

In a petition praying quashing of a cognizance order, jurisdiction of this Court under Section 482 of Cr.P.C. is limited and if the allegation on a reading of the complaint indicates that an offence is made out, jurisdiction of this Court under Section 482 of Cr.P.C. cannot be invoked.

In this case, even though it is the case of the petitioners that because of pendency of a title suit they have been implicated just to harass them, but the fact remains that the specific averments and evidence with regard to the incident that took place on 12.3.2013 is indicated in the order and there are



specific materials to show that a truck loaded with logs of Sisam trees which have been alleged to be cut was seized from the place and confiscated and after evaluating the evidence and finding prima facie material on a bare reading of the complaint and the statement of the complainant and his witnesses if the Court has taken cognizance of the offence, I see no reason to interfere into the matter and quash the cognizance order exercising my jurisdiction under Section 482 of Cr.P.C.

Accordingly, this application is dismissed.

(Rajendra Menon, CJ)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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