

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.22336 of 2014

Arising out of P.S. Case No.2465 Year- 2012 Thana -SIWAN COMPLAINT CASE District- SIWAN

- =====
1. Md. Zakir Hussain @ Motibabu Son of Md. Zakir Zawar Hussain
 2. Reyaz Hussain @ Jawahar Babu Son of Md. Zakir Zawar Hussain
 3. Faiyaz Babu Son of Md. Zakir Zawar Hussain
 4. Md. Ali Hussain @ Shayar Babu Son of Reyaz Hussain @ Jawahar Babu All resident of village- Husainganj, P.S.- Hussainganj, District- Siwan

.... Petitioners

Versus

1. The State of Bihar
2. Hakim, Son of late Abdul Hafiz, resident of village- Gadar, P.S.- Andar, District- Siwan

.... Opposite Parties

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Appearance :

For the Petitioners : Md. Anis Akhtar, Advocate

For the State : Mr. Arun Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 23-01-2018

Heard learned counsel for the petitioners, learned APP for the State as well as learned counsel appearing on behalf of opposite party no.2.

2. The petitioners by filing this quashing application seek quashing of the cognizance order and subsequent criminal proceeding of Complaint Case No.2465 of 2012, giving rise to Trial No.5427 of 2014, pending in the court of Judicial Magistrate, 1st Class, Siwan thereby taking cognizance of the offence under Sections 323, 427 and 504/34 of the Indian Penal Code by order dated 20.06.2013.

3. Learned counsel for the petitioners submits that there is dispute between the landlord and the tenant. Opposite party no.2 wanted to be tenant in the said premises, therefore, to put pressure this



false case was lodged, opposite party no.2 was never tenant of the petitioners and complainant also filed a police case, i.e., Hussainganj P.S. Case No.263 of 2012 suppressing the fact that earlier also filed a complaint case in the matter. However, the police after investigation found the case not true and submitted final form.

4. Contrary to that the learned counsel for the complainant submits that the complainant was tenant, there is evidence that still his part of the machine of oil expeller is in that premises and the complainant was forcibly evicted and assaulted.

5. Having considered the rival submissions and on perusal of the records, the Court finds that the allegations do constitute the offence as alleged in the complaint. It is not a law that once the police case is found not true then in the complaint the matter cannot proceed. It also transpires that the complainant had filed before this complaint a suit, i.e., Suit No.34 of 2008 against the accused persons impleaded as defendants seeking permanent injunction restraining them not to evict from the premises as a tenant, so this application stands dismissed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
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