

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.863 of 2016

Arising Out of PS.Case No. -59 Year- 2014 Thana -SAHKUND District- BHAGALPUR

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1. MD. SHAMIM @ SHAMIM AHMAD, son of Abdul Rahman,
 2. Md. Shahzada, son of Abdul Rahman,
 3. Md. Norej @ Norej, son of Md. Shamim,
 4. Naeen Sabo, wife of Md. Shahzada,
 5. Ruhi, wife of Amin,
 6. Jubaida @ Jabbar @ Jubaida Khatoon, wife of Firoz, all resident of Village-
Harnath, Police Station -Shahkund, District- Bhagalpur.
- Petitioner/s

Versus

1. The State of Bihar.
 2. Farzana Khatoon, wife of Shahnawaz Khan, resident of village- Samastipur,
Police Station -Shahkund, District- Bhagalpur.
- Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda, Advocate
For the Opposite Party/s : APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT
Date: 07-09-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 25.03.2015 passed by the Sub-Divisional Judicial Magistrate, Bhagalpur, in Sahkund P.S. Case No.59 of 2014 by which the learned Magistrate has taken cognizance against the Petitioners for the offence under Section(s) 147, 148, 149, 447, 427, 379, 504 Indian Penal Code.

Heard learned counsel for the Petitioners and learned APP for the State.



Counsel for the Petitioners submits that instant case has been filed due to land dispute between the parties.

The Informant has alleged in the written report that on the date of occurrence all the accused persons armed with deadly weapons like *lathi*, *Khurpi*, spade, *Gandasa* etc. arrived and claimed their right over the land and forcibly damaged and destroyed the vegetable of different varieties and mango trees as well as lemon trees. It is also alleged that they looted away the crops causing loss of rupees fifteen thousand to the Informant.

The police after investigation has submitted charge-sheet finding the allegation true. The Court below on the basis of allegation in the written report and the materials available in the case diary has taken cognizance against Petitioners by the impugned order.

Learned Magistrate is required to see only *prima facie* case at the time of taking cognizance.

This Court does not find any illegality in the impugned order passed by the Court below.

This application is, accordingly, **dismissed**.

The petitioners are given liberty to raise all the points, as raised in the present application, at the time of framing of Charge, which shall be considered and disposed off by the learned Court



below in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11-09-2018
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