

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.47746 of 2014**

Arising Out of PS.Case No. -3807 Year- 2013 Thana -VAISALI COMPLAINT CASE

District- VAISHALI (HAJIPUR)

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1. Maheshwar Prasad Singh, son of Late Pradeep Narain Singh.

2. Sunil Kumar Singh, son of Maheshwar Prasad Singh.

3. Chandan Kumar, son of Sunil Kumar Singh.

All are resident of Village - Dhandhwa, P.S. - Jandaha,  
District - Vaishali.

.... .... Petitioner/s

Versus

1. The State of Bihar.

2. Ramgati Prasad Razak, son of Late Shankar Prasad Razak, resident of Village - Dhandhwa, P.S. - Jandaha,  
District - Vaishali.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Awadhesh Kr. Singh, Adv.

For the State : Mr. J. Upadhayay (APP)

For the O.P. No. 2 : Mr. Anil Pd. Singh, Adv.

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**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**

ORAL ORDER

3      03-04-2018                      Heard the learned counsel for the petitioners,  
  
learned Additional Public Prosecutor for the State as well  
  
as learned counsel appearing on behalf of the opposite  
  
party No. 2.



The petitioners have sought quashing of the order dated 22.09.2014, passed by the learned Judicial Magistrate, Ist Class-Cum-Additional Munsif, Hajipur (Vaishali) in connection with Jandaha P.S. Case No. 178 of 2013, whereby cognizance has been taken against them under Sections 341, 323 and 379 of the Indian Penal Code.

Initially, the opposite party No. 2 had filed a complaint case against the petitioners *vide* Complaint Case No. C1-2473 of 2013, which was sent under Section 156(3) of the Code of Criminal Procedure for institution of a regular case. Thereafter, the subject First Information Report was registered for investigation. The police, after investigation submitted final report false and the case having been lodged because of previous land dispute between the parties. In the meantime, the opposite party No. 2 also preferred a protest petition before the Court. However, the learned Chief Judicial Magistrate, on perusing the police report and the investigation papers, came to the conclusion that there were sufficient materials on record to take cognizance for the offences under Sections 341, 323 and 379 of the Indian Penal Code against the petitioners.

Learned counsel for the petitioners has



submitted that there is a land dispute between the parties and a Title suit between the parties *vide* Title Suit No. 239 of 2005 is pending adjudication before a competent Court of law. It has also been submitted that the petitioner No. 1 is aged about 70 years and is retired as Post-Master. Similarly, the petitioner No. 2, who is the son of petitioner No. 1, is serving the State of Bihar as a Child Welfare Officer at Sheohar, who was not even present in the village at the time of the occurrence. The petitioner No. 3 is the grandson of petitioner No. 1 and owns a medical shop in the area.

During the investigation, it was found that the petitioner No. 2 was not present at the place of occurrence. The records further reveal that no witness has supported the case of the opposite party No. 2 and that the case has been lodged only because of the land dispute. It further becomes evident that the three generations of the petitioners have been made accused by the opposite party No. 2. There is pendency of earlier cases between the parties as well.

Considering the aforesaid background, it appears that this case has been filed only for oblique purposes. It does not appear to be probable that persons of the same village, who stand in special relation of being



a son and grandson of petitioner No. 1, would join hands and would abuse opposite party No. 2 by taking his caste name and would divest him of his personal belongings including cash of Rs. 2,000/- and articles worth Rs. 2,100/-. Such allegations, if allowed to be adjudicated, would only be an abuse of the process of the Court.

Considering the nature of accusation, pendency of a civil dispute between the parties and the petitioners as well as the opposite party No. 2 being co-villagers, this Court is of the view that allowing the present prosecution to be continued any further would be nothing, but an abuse of the process of the Court simpliciter.

For the reasons stated above, the order taking cognizance and all the emanating proceedings therefrom are quashed.

The petition stands allowed.

**(Ashutosh Kumar, J)**

Praveen-II/-

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