

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46864 of 2013

Arising Out of PS.Case No. -null Year- null Thana -null District- GOPALGANJ

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1. Balister Yadav @ Balister Son of Late Satyanarayan Yadav Resident of Village - Ramgarhwa, P.S. - Kuchaikot, District - Gopalganj
 2. Raju Yadav Son of Ram Bichar Yadav Resident of Village - Ramgarhwa, P.S. - Kuchaikot, District - Gopalganj
 3. Ram Bichar Yadav Son of Late Singasan Yadav Resident of Village - Ramgarhwa, P.S. - Kuchaikot, District - Gopalganj
 4. Viresh Yadav Son of Late Ramayan Yadav Resident of Village - Ramgarhwa, P.S. - Kuchaikot, District - Gopalganj
 5. Birbal Yadav Son of Late Ramayan Yadav Resident of Village - Ramgarhwa, P.S. - Kuchaikot, District - Gopalganj
 6. Buton Yadav Son of Ram Vidya Yadav Resident of Village - Ramgarhwa, P.S. - Kuchaikot, District - Gopalganj
 7. Anil Gupta @ Anil Kumar Prasad Son of Nandraj Gupta Resident of Village - Ramgarhwa, P.S. - Kuchaikot, District - Gopalganj
 8. Shivdhyan Gupta @ Shivdhyan Prasad Son of Late Lavhar Gupta Resident of Village - Ramgarhwa, P.S. - Kuchaikot, District - Gopalganj
 9. Binod Gupta @ Binod Kumar Gupta Son of Shivdhyan Gupta Resident of Village - Ramgarhwa, P.S. - Kuchaikot, District - Gopalganj

.... Petitioners

Versus

1. The State of Bihar
2. Vijay Yadav Son of Harilal Yadav Resident of Village - Ramgarhwa, P.S. - Kuchaikot, District - Gopalganj

.... Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Gyan Prakash, Advocate
For the State	:	Mr. Mayanand Jha, APP
For O.P. No.2	:	Mr. C.K. Kashyap, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 08-01-2018

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

2. The petitioners seek quashing of the cognizance order dated 14.09.2012, passed by Judicial Magistrate, 1st Class, Gopalganj in Complaint Case No.2134 of 2011 thereby taking cognizance of the offence



under Sections 147, 323 and 379 of the Indian Penal Code.

3. The fact giving rise to the case is that a proceeding under Section 144 was initiated over the land in question. It is alleged that during the pendency of the proceeding, the accused persons came and cut away the paddy crop, when protested then abused and assaulted with fists.

4. Learned counsel for the petitioners submits that there is land dispute between both sides. A title suit is also sub-judice in between both sides over the same land and earlier also a case was filed by the complainant for creating forged document and the same was set aside by this Court, on account of land dispute, the petitioners have falsely been implicated in this case and petitioner no.5 was not in the village as he was employed in Arunachal Pradesh and was present there.

5. Having considered the allegations as well as materials on record, it is not that no offence is disclosed against the petitioners. The defence of the petitioners cannot be considered at this stage and prosecution cannot be stifled only considering the stand taken by the accused persons, it is a matter of trial. So finding no merit, the application stands dismissed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.01.2018
Transmission Date	11.01.2018

