

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4741 of 2016

Arising Out of PS. Case No.-121 Year-2007 Thana- TEKARI District- Gaya

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1. Lakhan Sao S/o Shiv Prasad Sao
 2. Govind Sao @ Govind Kumar
 3. Rajesh Kumar @ Dablu Kumar @ Dablu Sao
 4. Arvind Kumar @ Arvind Sao All are sons of Lakhan Sao All are resident of village - Rekhawganj, P.S. Tekari, District - Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. Jitendra Kumar Keshri S/o Shri Ramashish Prasad Keshri resident of village - Rekhawganj, P.S. Tekari, District - Gaya

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Deepak Kumar

For the Opposite Party/s : Mr. Dilip Kumar(App)

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL ORDER

3 31-07-2018 This application under Section 482 Cr. P.C. has been filed for quashing the order dated 24.8.2015 passed by J.M. 1st Class, Gaya in Tr. No. 149 of 2015 by which learned Magistrate has rejected the discharge petition filed by the petitioners under Section 239 Cr. P.C.

Heard learned counsel the petitioners, learned counsel for the informant and learned counsel for the State.

Learned counsel for the petitioners has submitted that there is land dispute between the parties. It is further submitted that informant committed occurrence for the same date of occurrence for which petitioner – Lakhan Sao filed a case vide Tekari P.S. case no. 121 of 2007 dated 16.09.2007 under Sections 341, 323, 307 and



379/34 of the IPC.

Learned counsel for the informant has submitted that there is no mention of any land dispute in the written report. There is allegation of specific overt act against these petitioners. The police, after investigation, has found the case true and charge sheet was submitted against these petitioners and thereafter cognizance has been taken against these petitioners.

In the written report, it is alleged that on the date of occurrence 10-12 unknown persons including the petitioners came, tried to encroach the land just beside the shop of the informant for which also they destroyed the shop. It is further alleged that accused persons tried to commit murder by pressing the neck of Devendra Prasad Keshri and also assaulted the nephew of the informant. It is further alleged that accused persons looted the articles worth Rs. 40,000/- in cash and forcibly took possession of the shop. An information was given to the Officer in-charge, Tekari on 13.9.2007 even then accused persons committed occurrence which was seen by some of the witnesses.

The police after investigation submitted charge sheet in this case for the offence under Sections 341, 323 and 427/34 of the IPC. Cognizance has been taken by learned Magistrate by order dated 17.09.2008 for the offence under Sections 341, 323 and 379/34 of the IPC. The discharge petition filed by the petitioners under Section 239 Cr.P.C. was heard and the learned Court below has rejected the



aforesaid petition on the ground that there is sufficient materials on record to frame charge against the accused. The police during investigation has found the case true and submitted charge sheet against these petitioners.

This Court, after looking into the nature of allegation in the written report and the reasons given by learned Magistrate, does not find any illegality in the impugned order dated 24.8.2015.

This Cr. Misc. petition is , accordingly, dismissed.

The trial Court is directed to proceed in the case in accordance with law.

(Sanjay Priya, J)

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