

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12187 of 2015

Arising Out of PS.Case No. -1606 Year- 2013 Thana -BHAGALPUR COMPLAINT CASE District-
BHAGALPUR

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1. Md. Shakeel Ejal

2. Md. Sharbar

Both Son of Md. Yunus. Resident of Village- Hussainabad. Police station-
Mojahidpur, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar

2. Md. Iqbal Ahmad son of Sheikh Shefayat Resident of Mohalla- Sahebganj,
Police Station- Visvidyalaya, District- Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Md. Najmul Hodda

For the Opposite Party/s : Meena Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 09-01-2018

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

The petitioners seek quashing the order of cognizance dated
25.11.2013 passed in Complaint Case No. 1606 of 2013 by the
learned Chief Judicial Magistrate, Bhagalpur thereby taking
cognizance of offence under Sections 341, 323, 379 and 504/34 of the
Indian Penal Code issued summons to stand trial.

The brief fact giving rise to the case is that the accused
persons deal in sale and purchase of the land. On the alleged date of
occurrence, when the complainant went to his land saw the accused



persons demolishing portion of 7 feet boundary wall and when he asked them why you are doing such act then one of the accused said that he had promised to sell the land within a month, but he did not do so, therefore, they are taking possession of the land. They demolished boundary wall and took out Rs. 2000/- from his pocket and mobile set and also assaulted with fist and leg, any how he escaped away.

Learned counsel appearing on behalf of the petitioners submits that it is a civil dispute as Title Suit No. 170 of 2014 is going on, but the accused persons are not the parties either as plaintiff or defendant in that suit, and no prima facie case of assault and theft is made out.

Contrary to that the learned counsel for the State submits that there is specific allegation that the accused persons forcibly demolished the boundary wall of the complainant, as they intended to purchase it but the complainant refused to sell the land so subsequently, they assaulted and committed theft and it is also an admitted position that there is no any title dispute between complainant and the petitioners.

Having considered the rival submissions and on perusal of the materials on record, this Court finds that the allegations levelled in the complaint disclose the offence in which cognizance has been taken and there is no material on record to show that any title suit is sub



judice in between the petitioner and the complainant. So, this application stands dismissed.

(Arun Kumar, J)

ajay gupta/-

AFR/NAFR	NAFR
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