

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1918 of 2016

Arising Out of PS.Case No. -15412 Year- 2014 Thana -BEGUSARAI COMPLAINT CSAE District-
BEGUSARAI

=====

Ram Udit Mahton, S/o Late Sita Ram Mahton, Resident of Vill- Kastoli, P.S.
Mansurchak, Dist Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Veena Devi, w/o Ram Punit Mahton, Resident of Vill- Kastoli, P.S.
Mansurchak, Dist- Begusarai.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Jintendra Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Ram Sumran Ray, APP

: Mr. Ashok Kumar Mishra, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 26-09-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 20.08.2015 passed by the Judicial Magistrate, 1st class, Begusarai, in Complaint Case No.15412-c of 2014 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioner for the offence under Section(s) 341, 323, 447, 427 and 379 Indian Penal Code.

Heard the parties.

Counsel for the petitioner submits that on the alleged date of occurrence he was in custody. It is further submitted that petitioner was taken into custody on 13.11.2014 in Mansurchak P.S.



Case No.83 of 2014.

Counsel for the Opposite Party No.2 has submitted that after filing charge-sheet the same Investigating Officer had gone to investigate Mansurchak P.S. Case No.85 of 2014, instituted by husband of Nirmala Devi, and in course of investigation same Investigating Officer, namely, Birendra Singh, raided the house of the accused persons namely, both sons of Opposite Party No.2 and found them absconding from the house on 14.11.2014. Counsel for the Opposite Party No.2 further submits that there is no bar in continuation of criminal prosecution if civil dispute is also pending.

Counsel for the petitioner submits that present case has been filed in retaliation of the case lodged by the petitioner's wife on 11.11.2014 against the family members of the Complainant, which was registered as Mansurchak P.S. Case No.83 of 2014 for the offence under Section(s) 341, 323, 504/34 Indian Penal Code.

In the Complaint Petition, there is allegation that on the date of occurrence these petitioners after forming unlawful assembly came in the field of the Complainant and started abusing the Complainant. They also assaulted the Complainant and his family members and destroyed the crops. Son of Complainant rushed to save his life then all the accused persons followed him and entered into the house of the Complainant and assaulted his family members



and also damaged household articles. It is also alleged that accused Ram Udit and Suman took away box from the house containing jewellery, cash etc.

The Court below is only required to see *prima facie* case at the time of taking cognizance.

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

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

The Court below will proceed in the case in accordance with law.

The petitioner is 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	07-10-2018
Transmission Date	07-10-2018

