

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

**Criminal Miscellaneous No.38950 of 2015**

Arising Out of PS.Case No. -856 Year- 2009 Thana -AURANGABAD COMPLAINT CASE  
District- AURANGABAD

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1. Sahud Ansari, S/o Late Abdul Badud Ansari
  2. Masood Ansari, S/o Late Abdul Badud Ansari
  3. Noor Jahan Bano, w/o late Abdul Badud Ansari
  4. Mehrunisha
  5. Rukshana Bano
  6. Nafisa Khatoon
  7. Rokaiya Khatoon
  8. Firdoshia Praveen
  9. Sufia Praveen
  10. Suraiya Bano
  11. Sabina Khatoon
  12. Samima Khatoon
  13. Nagma Khatoon

All 4 to 13 are daughter of late Abdul Badud Ansari

14. Haidar Ali, s/o not known

All resident of Mohalla Nawadih Road, Police Station Aurangabad (T), District Aurangabad, Bihar.

.... .... Petitioner/s

Versus

1. The State of Bihar.
2. Hira Prasad Gupta, s/o late Ramchandra Prasad, resident of Mohalla Nawadih, Police Station Aurangabad (T), District Aurangabad, Bihar.

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

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**Appearance :**

For the Petitioner/s : Mr. Tej Narayan Singh, Advocate.

For the Opposite Party/s : Mr. Zainul Abedin, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**

**ORAL JUDGMENT**

**Date: 18-05-2018**

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 07.07.2015 passed by Shri Mahavir Prasad, learned Judicial Magistrate, 1<sup>st</sup> Class, Aurangabad, in Trial No. 194 of 2015 arising out of Complaint Case No. 856 of 2009 by which the learned Magistrate has rejected the petition dated



17.01.2015 filed by the petitioners for discharge.

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

3. It has been submitted that there is civil dispute between the parties and Title Appeal No. 35 of 2009 is pending before the court of learned District Judge, Aurangabad. It has further been submitted that petitioner Nos. 3 to 13 are ladies. They have no concern with the aforesaid dispute. They have been falsely implicated in the case because they are mother and sisters of petitioner No. 1.

4. In the complaint petition it is alleged that land as mentioned in the complaint petition was purchased by wife of the complainant on 13.03.2003 and in course of partition between the vendor of the complainant and his father, the complainant acquired possession by compromise decree. The accused persons were interfering in peaceful possession of the complainant. Title Suit No. 115 of 2006 was decreed in his favour. He raised boundary wall over the aforesaid land. It is further alleged that accused persons (petitioners) after forming an unlawful assembly, on 23.8.2009, broke the lock of boundary wall and also demolished the same. They took away various articles kept inside the boundary wall as mentioned in the complaint petition. The allegation against petitioner Nos. 3 to 13 is that they took away Spade, *Kadahi*, Plastic pipe, Plastic drum etc. of the complainant valued at about Rs.10,000/-. The said occurrence was reported in the Police Station, but no action was taken. Then the instant complaint was filed.



5. This Court after looking into the allegation in the complaint finds that there is no allegation of any specific overt act against petitioner Nos. 3 to 13 who are all ladies. There are no ingredients of any criminal offence against them. There is general and omnibus allegation against them that they took away Spade, *Kadahi*, Plastic pipe, Plastic drum etc.

6. Therefore, the impugned order dated 07.07.2015 with regard to petitioner Nos. 3 to 13 passed by Shri Mahavir Prasad, learned Judicial Magistrate, 1<sup>st</sup> Class, Aurangabad in Trial No. 194 of 2015 arising out of Complaint Case No. 856 of 2009 along with entire Criminal Proceeding is hereby quashed. The petitioner Nos. 3 to 13 are discharged from the offence.

7. So far case of petitioner Nos. 1, 2 and 14 are concerned, this Court does not find any illegality in the impugned order with regard to them. The court below will proceed with the trial in accordance with law against petitioner Nos. 1, 2 and 14.

8. This Criminal Miscellaneous application is accordingly allowed in part.

**(Sanjay Priya, J)**

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