

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29303 of 2012

Arising Out of PS.Case No. -413 Year- 2008 Thana -null District- SITAMARHI

- =====
1. Maheshwar Sharma,
 2. Arjun Thakur, both son of Late Basawan Thakur,
 3. Ram Ekbal Sharma, s/o late Dorik Thakur, all r/o village- Rajopatti, Dumara Road, P.S. Sitamarhi, District - Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar
2. Basudeo Sharma, son of late Bigan Sharma, resident of village- Manikchak, P.S.-Runnisaidpur, District-Sitamarhi.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satya Prakash Sinha, Advocate
For the Opposite Party No.1: Mr. Ramesh Chandra, APP
For the Opposite Party No.2: None

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 17-05-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 19.05.2012 passed by the Sub-Divisional Judicial Magistrate, Sadar, Sitamarhi, in Complaint Case No.C-1-1028 of 2011 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners for the offence under Section(s) 323 and 427 Indian Penal Code.

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

Notice was issued to Opposite Party No.2, who has



appeared by filing vakalatnama, but none has appeared on behalf of the Opposite Party No.2 at the time of hearing of the application.

Case of the Complainant is that on 24.02.2008 at 10.00 AM a meeting was called in Vishwakarma Welfare Society, Rajopatti, Dumara Road, Sitamarhi. The petitioners as well as other accused persons and the informant belongs to same caste. Altercation took place in the meeting. Accused persons damaged the papers as well as register and forcibly took the documents of the society. It is also alleged that the accused persons broke the Board of the Society at the main gate causing loss of Rs.1500/- to the Society.

Initially, complaint was filed, which was sent to P.S. under Section 156(3) Cr. P. C. The police after registering the case and due investigation submitted final form. Later on, the informant filed Protest Petition and on the basis of Protest Petition the case proceeded vide Complaint Case No.C-1-1028 of 2011 and after enquiry under Section 202 Cr.P.C. impugned order has been passed by the learned Court below finding *prima facie* case under Section 323 and 427 Indian Penal Code.

From the nature of allegation in the Complaint Petition, it appears that mere vague and general allegation has been levelled against the petitioners. Moreover, matter was once investigated by the police on the basis of complaint filed by the Complainant and the



police submitted final form. Thereafter, matter again proceeded on the basis of Protest Petition and the impugned order has been passed.

From the allegation in the Complaint Petition, this Court does not find any ingredient of criminal offence.

In view of such, impugned order dated 19.05.2012 passed by the Sub-Divisional Judicial Magistrate, Sadar, Sitamarhi, in Complaint Case No.C-1-1028 of 2011 along with entire criminal proceeding against the petitioners is hereby quashed.

This application is, accordingly, **allowed**.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23-05-2018
Transmission Date	23-05-2018

