

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.14366 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- KATIHAR

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1. Md. Akhtar Ali, son of Late Zahoor Alam,
 2. Mojibur Rahman @ Md. Mojibur Rahman, son of Akhtar Ali,
 3. Ziaul Haque @ Md. Ziaul Haque @ Md. Ziaul, son of Akhtar Ali,
 4. Md. Jamal @ Jamal, son of Akhtar Ali, all resident of village- Manoharpur,
Police Station- Manihari, District- Katihar

.... Petitioner/s

Versus

1. The State of Bihar &
2. Md. Sultan Alam, son of Abdus Shakoor Alam, resident of village-Manoharpur,
P.S.-Manihari, District-Katihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Prasad Sah, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Singh, APP

Mr. P. K. Jaipuriyar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 04-01-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 14.09.2010 passed by the Judicial Magistrate, 1st class, Katihar, in C.A. No.1131 of 2010 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners for the offence under Section(s) 147, 453, 323, 379, 504 Indian Penal Code.

2. Heard counsel for the petitioners and the learned APP for the State as well as counsel for the Opposite Party No.2.

3. From the order dated 11.04.2012 passed in the instant case, it transpire that this application was directed to be heard



along with Cr. Misc. No.67 of 2011.

4. Record of Cr. Misc. No.67 of 2011 has been placed with this record from which it transpires that aforesaid case has already been disposed off on 29.03.2016.

5. It has been submitted that counter case has already been quashed by judgment dated 29.03.2016 passed in Cr. Misc. No.67 of 2011 by a co-ordinate Bench of this Court on the ground that civil suit is pending between the parties.

6. From the allegation made in the Complaint Petition of the instant case, this Court finds that the occurrence has no connection with the civil suit pending between the parties. There is specific allegation in the Complaint Petition against the petitioners of assaulting the Complainant and giving threat by putting pistol on the temple of the Complainant and also of snatching rupees twenty thousand and some important documents and golden jewellery worth rupees seventy five thousand.

7. Learned Magistrate after looking into solemn affirmation of the Complainant and the statement of three witnesses recorded during enquiry has found *prima facie* case against the petitioners for the offence under Section(s) 147, 453, 323, 379, 504 Indian Penal Code.

8. The Magistrate is only required to see *prima facie*



case at the time of holding enquiry.

9. Therefore, this Court does not find any illegally in the impugned order.

10. This application is, accordingly, dismissed.

11. Liberty is given to the petitioners 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 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	18-01-2018
Transmission Date	18-01-2018

