

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No.55 of 2017

Arising Out of PS. Case No.-1549 Year-2012 Thana- VAISALI COMPLAINT CASE
District- Vaishali

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Ram Naresh Giri Son of Late Sheodayal Giri, R/o Village- Sharma Amar,
P.S.- Bhagwanpur, District- Vaishali,

... .. Appellant/s

Versus

1. The State of Bihar.
2. Mahanand Giri @ Pahalwan, Son of Late Shatrughan Giri,
3. Thakur Giri Son of Late Rajdeo Giri,
4. Kapil Giri Son of Late Sheo Giri,
5. Raj Kishore Giri Son of Late Jamadar Giri,
6. Binay Giri Son of Late Ram Naresh Giri, Respondent No. 2 to 6 are Resident of Village- Sharma Amar, P.S.- Bhagwanpur, District- Vaishali.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Awadhesh Kumar Singh
For the Respondent/s : Mr. S.A.Ahamad(App)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 20-11-2018 The appellant seeks grant of leave for preferring an appeal against the judgment and order of acquittal dated 19.07.2017 passed by the learned Additional Chief Judicial Magistrate-XI, Vaishali at Hajipur in Trial No. 36 of 2017 arising out of Complaint Case No. 1549 of 2012.

It has been alleged in the complaint that the accused persons (opposite parties no. 2 to 5) entered the hut of the informant, (proposed appellant) assaulted him and took his signature on blank piece of paper. On the basis of the aforesaid complaint, cognizance was taken for the offences under Sections 147, 341, 323,



504/34 of the Indian Penal Code.

During trial, three witnesses were examined on behalf of the petitioner including himself. The trial court took into account that the complaint was lodged after 37 days of the occurrence and there was nothing to substantiate that any written report was filed before the police which was not acted upon and the petitioner had, perforce, to take shelter of the court in preferring the complaint petition.

The other aspects which caught the attention of the court below was that there was a 144 proceeding between the petitioner and the opposite party no. 2, which, according to the statement of the petitioner ended in his favour. The records reveal that the proceedings under Section 144 was dropped as the matter was pending adjudication before a competent civil court. With respect to the other litigation also, the court was of the view that the present complaint could be an outcome of the past dispute over a plot of land over which there were competing claims. Two of the other witnesses C.W. 1 and C.W. 2 viz. Arjun Giri and Kishori Giri respectively, though have claimed to be eye witnesses to the occurrence, but could not state in detail as to the date and time of the occurrence as well as the manner of assault.



Cumulatively and justifiably, the trial court found the allegation to be absolutely conjured up for the purposes of harassing the opposite parties or for the purposes of avenging the old enmity with them.

The grounds taken by the trial court in dismissing the case of the petitioner are cogent and require no interference.

For the aforesaid reasons, the leave is declined.

The petition is dismissed.

(Ashutosh Kumar, J)

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