

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30805 of 2015

Arising Out of PS. Case No.-520 Year-2004 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

Dr. Manoranjan Nath Sinha @ Manoranjan Srivastava son of late Gopal Nath Sinha aged about 58 years, resident of Mohalla- Chandmari Road no. 9, P.O. Kankarbagh, P.S. Kankarbagh, district Patna-800020, Bihar presently residing at Mohalla-S.B.I. colony near Steel Gate Corner, P.S. Saraidhela, District Dhanbad, Jharkhand.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Pramod Kumar Srivastava son of late Tarkeshwar Nath Resident of village Dighwa, P.S. Baikunthpur, District Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kumar Kaushik
For the Opposite Party/s : Mr. Dr. Rabindra Kumar APP

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 19-02-2018

Notice was issued to the opposite party no.2 which was validly served as the opposite party no.2 refused to accept the notice.

This petition has been filed to quash the order dated 04.03.2015 passed by learned Judicial Magistrate, 1st Class, Gopalganj in complaint case no. 520 of 2004, by which learned Magistrate has rejected the discharge petition filed by the petitioner under Section 245 of the Cr. P.C.

Learned counsel for the petitioner has submitted that the petitioner and the complainant are cousin brothers. There is property dispute between the parties. The instant case has been



lodged only to harass the petitioner who is, at present, Resident Medical Officer, Department of Radiology, Patliputra Medical College and Hospital, Dhanbad. In the complaint petition, it is alleged that on the alleged date of occurrence when the complainant went to his field the petitioner and other accused persons named in the complaint petition assaulted the complainant with fists, slaps and sticks etc. It is further alleged that accused no.3 Shiv Baraik Mahto assaulted the complainant on his head with prong and accused no.4 Dashwant Mahto assaulted the complainant on his chest with a spear and threatened to kill him. It is further alleged that accused persons also took 30 bags of wheat amounting to Rs. 2000/- from his field on a tractor.

The learned Court below has after holding enquiry found prima facie case against the petitioner and other accused persons for the offence under Sections 147, 323 and 379 of the Indian Penal Code. Learned counsel for the petitioner has further submitted that complainant has concealed the fact in the complaint petition that he is cousin brother of the petitioner and there is land dispute between the families for the aforesaid property since long time. It is further submitted that the land in question was self acquired property of father of the



petitioner,namely, Late Gopal Nath Sinha. The father of the petitioner had filed a Civil Suit bearing Title Suit no. 294 of 1948 in which his own brother i.e. the father of the complainant, namely, Late Tarkeshwar Nath was the defendant no.5. The aforesaid suit was decreed in favour of the father of the petitioner and decree was passed on 16.02.1953 by the learned Munsif, Gopalganj. Thereafter, a Partition Suit no. 573/1974 was filed before the learned Sub-Judge, Gopalganj, in which, the ancestral property was partitioned between the father of the petitioner and his two brothers, one of them being the father of the complainant. The aforesaid land is recorded in the name of the father of the petitioner. The Jamabandi bearing no. 830 was created in his name after the decree passed in Title Suit and rent receipts were issued in his name. The petitioner has enclosed the rent receipts issued till the year 2011-12 as Annexure-3 series.

In such circumstances, ,it is a matter of purely civil dispute between the parties. The petitioner has been made accused in this complaint case only for harassment on account of aforesaid civil dispute between the parties. Therefore, the impugned order along with the entire criminal proceedings against the petitioner is quashed.



This Cr. Misc. application is allowed at the admission stage itself.

(Sanjay Priya, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	9/3/18
Transmission Date	9/3/18

