

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.4093 of 2016

Arising Out of PS.Case No. -125 Year- 2010 Thana -BEGUSARAI MUFFASIL District-
BEGUSARAI

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1. Vijay Singh @ Vijay Kumar Singh, S/o Late Nageshwar Singh,
2. Anmol Kumar, S/o Vijay Singh @ Vijay Kumar Singh,
3. Manish Kumar, S/o Vijay Singh @ Vijay Kumar Singh,

All Resident of Village - Paspura, P.S. - Muffasil, District - Begusarai

.... Petitioner/s

Versus

1. The State of Bihar.
2. Manoj Kumar Singh, S/o Late Ram Padarath Singh, Resident of Village Paspura, P.S. - Muffasil, District- Begusarai.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Anita Kumari, Advocate.

For the Opposite Party/s : Mr. Raj Ballabh Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 05-09-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 30.06.2010 passed by learned Chief Judicial Magistrate, Begusarai, in Begusarai Muffasil P.S. Case No. 125 of 2010 by which the learned Magistrate took cognizance against the petitioners for the offences under Sections 341, 323 and 504/34 of the Indian Penal Code.

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

3. Learned counsel for the petitioners submits that petitioner No. 1 and the informant-opposite party No. 2 are own



brothers. The family dispute arose only for minor allegation. Counsel for the petitioners further submits that both parties are known to each other.

4. The Complaint Case No. 1061 C of 2010 has been filed by the petitioner No. 1 against the informant and others. Similarly the Complaint case No. 1093(C) of 2010 has been filed by complainant of the instant case against petitioner Nos. 1 and 3.

5. Counsel for the petitioners has submitted that during hearing of one of the case filed by petitioner No. 1 and others against the informant in Cr. Misc. 35547 of 2014 the petitioners have submitted before this Hon'ble Court that parties are in agreement that all the cases should be set aside in their interest and on such agreement between the parties, both cases filed by parties against each other have been quashed vide order dated 12.03.2015. It has further been submitted that one of the case filed by opposite party No. 2 against the petitioners in Complaint Case No. 1093(C) of 2010 has also been set aside by this Court vide order dated 31.08.2015 passed in Cr. Misc. 45243 of 2014 after relying on the express agreement between the parties to settle the dispute at their interest.

6. Notice has been issued to the opposite party No. 2 but none appeared on behalf of opposite party No. 2 to oppose the prayer of petitioners.



7. In the written report it is alleged that on the date of occurrence, petitioner Nos. 1 and 2 were cutting banana stem which was hanging on roof of southern portion of informant's house, in course of which, some "*Khapda*" fixed on roof had broken. Thereafter, on hearing the same, the informant requested the petitioners to cut the stem from down on the ground. Petitioner No. 1 upon hearing the same, tried to hold informant's neck whereupon the informant's golden chain worth Rs.22,000/- was snatched and when he attempted to get it back, he was assaulted by Neelam Devi, wife of petitioner No. 1 and petitioner No. 2 by leg and fist. The son of informant tried to rescue him, then he was abused by them.

8. Record of Cr. Misc. No. 35547 of 2014 has been called for which has been received.

9. From the order dated 12.03.2015 passed in Cr. Misc. 35547 of 2014 it appears that that parties were in agreement that all the cases should be set aside in their interest, and on the basis of which, the Hon'ble Court has set aside two cases filed by the petitioners against the informant. Further it appears from Annexure-3 that one of the case filed by the informant against petitioners has also been set aside on the basis of statement made in Cr. Misc. 35547 of 2014 vide order dated 31.08.2015 passed in Cr. Misc. 45243 of 2014.

10. Today, none appeared on behalf of the opposite



party No. 2 even after valid service of notice, to deny the statement made on behalf of petitioners that petitioners have entered into amicable settlement.

11. Therefore, this Court is of the view that continuance of criminal proceeding against the petitioners will be mere harassment and abuse of the process of court.

12. Therefore, the impugned order dated 30.06.2010 passed by learned Chief Judicial Magistrate, Begusarai, in Begusarai Muffasil P.S. Case No. 125 of 2010 along with the entire criminal proceeding against the petitioners is hereby quashed.

13. This Criminal Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	14/09/2018
Transmission Date	14/09/2018

