

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.260 of 2016

Arising Out of PS.Case No. -31 Year- 2012 Thana -KHAGARIA COMPALINT CASE District-
KHAGARIA

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1. Md. Amad Uddin @ Moulana Amad, son of Late Md. Reyazuddin, Resident of village- Saidpur, P.S.- Mansi, District- Khagaria
2. Md. Jaki Uddin, son of late Md. Safiuddin
3. Md. Iqbal, son of late Md. Safi Ahmad
4. Md. Bato, son of Late Md. Domi
Petitioner Nos. 02 to 04 are Resident of village- Khirnia, P.O.- Balaha Bazar, P.S.- Mansi, District- Khagaria

.... Petitioner/s

Versus

1. The State of Bihar
2. Jagarnath Sah, son of late Ashik Sah, Resident of village- Balaha Bazar, P.S.- Mansi, District- Khagaria

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amrendra Kumar, Advocate.
For the Opposite Party/s : Mr. Suresh Pd. Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 14-08-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 22.7.2015 passed by learned Judicial Magistrate, 1st Class, Khagaria, in Complaint Case No. 31(C) of 2012 arising out of Mansi P.S. Case No. 143 of 2010, G.R. No. 1894 of 2010 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners for the offences under Sections 323, 379 and 447/34 of the Indian Penal Code.



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

3. As per First Information Report lodged by the informant before the Superintendent of Police, Khagaria, the petitioners on the date of occurrence came to the Grocery shop of the informant and gave threat and also made demand of Rs.5,000/- as *rangdari* to run the shop. The informant refused to give money and told petitioner that he is running his shop on his own land and, so, he would not give Rs.5,000/- as extortion. Thereafter, the accused persons, specifically petitioner No. 1 abused the informant and told other accused persons to take all articles from his shop, upon which, petitioner No. 4 took away Rs.13,000/- from *Galla* of the shop. Petitioner Nos. 2 and 3 looted the articles of the shop worth Rs.4,000/- and gave threat.

4. Police after investigation has found the case false and recommended for action under Section 182/211 of the Indian Penal Code. Thereafter, on the basis of protest petition filed by the informant, the learned Magistrate hold enquiry under Section 202 Cr. P.C. and by the impugned order has found *prima facie* case against the petitioners for the offence under Sections 323, 379 and 447 of the Indian Penal Code.



5. Counsel for the petitioners has submitted that the instant case has been filed on account of land dispute. The correct fact is that land on which the petitioner is running Grocery shop is Government land over which double storied building of UNICEF is running since 1981. Counsel for the petitioners has further submitted that during enquiry, all the witnesses have stated about land dispute between the parties.

6. The Xerox copy of Solemn Affirmation of the complainant along with statement of other witnesses have been enclosed by way of filing supplementary affidavit on behalf of the petitioners. From perusal of those statements, it appears that witnesses have stated that there is land dispute between the parties. Today another supplementary affidavit has been filed on behalf of the petitioners enclosing copy of the order passed by the Circle Officer, Mansi, along with report as Annexure-4 series to show that the aforesaid land is Government land.

7. In such circumstances, this Court finds that dispute between the parties is purely civil dispute.

8. Therefore, the impugned order dated 22.7.2015 passed by learned Judicial Magistrate, 1st Class, Khagaria, in Complaint Case No. 31(C) of 2012 arising out of Mansi P.S. Case No.



143 of 2010, G.R. No. 1894 of 2010 along with the entire criminal proceeding, is hereby quashed.

9. This Criminal Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A
Uploading Date	30/08/2018
Transmission Date	30/08/2018

