

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24318 of 2011

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1. Dinesh Prasad Singh @ D.P. Singh S/O Late Hari Nandan Singh Resident Of Mohalla- Vijay Nagar, Lane No.2, Rukunpura, Police Station- Danapur, District- Patna
 2. Sushila Singh W/O Dinesh Prasad Singh Resident Of Mohalla- Vijay Nagar, Lane No.2, Rukunpura, Police Station- Danapur, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ravindra Thakur S/O Ras Bihari Thakur @ Ras Dhari Thakur Resident Of Mohalla- A/3, Vijay Nagar, Ras Bihari Path, P.S.- Danapur, District- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bibhakar Tiwary
For the Opposite Party/s : Mr. Sangita Sharma APP

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date : 17-05-2018

This quashing petition has been filed under Section 482 Cr. P.C. for quashing the order dated 13.6.2011 passed by the learned Judicial Magistrate 1st Class, Danapur by which the petition filed on behalf of the petitioners for discharge has been dismissed.

Heard learned counsel for the petitioners. Name of the counsel for the opposite party no.2 is appearing in the cause list but no one appears on behalf of opposite party no.2 at the time of hearing.

The complainant has filed the complaint petition alleging that on the date of occurrence he along with his family



members were in the house. The accused persons named in the complaint arrived and started committing *mar- pit* with the complainant. It is alleged that on the order of petitioner No.1 co- accused Abhishek Kumar assaulted the complainant. Petitioner no.2 alleged to have assaulted the complainant's wife and also abused her. It is further alleged that due to intervention of the other persons the accused persons left the complainant and his wife. They also destroyed T.V., furniture and glass and took away Rs. 2000/- from the pocket of the complainant and documents from the Almirah. Petitioner no.2 is alleged to have snatched the golden chain from the neck of the complainant's wife..

The court below has mentioned in the impugned order that only one witness was examined before charge under Section 244 Cr. P.C. who has partially supported the complainant's case as mentioned in the complaint petition. The said witness has not stated the name of all the accused person. He has not supported on the point that petitioner no.1 took away documents from the Alimirah of complainant. He has not stated that complainant come with any arms in their hand. This Court finds that still the Court below has dismissed the



discharge petition on the ground that witness before charge has supported on the point of hurt, theft of cash and jewellery.

This Court, after perusing the impugned order, is of the view that Court below has committed illegality in dismissing the discharge petition filed on behalf of the petitioners.

Accordingly the impugned order dated 13.6. 2011 passed by the learned Judicial Magistrate 1st Class, Danapur in complaint case no. 324 (C) of 2007 is quashed. The petitioners are discharged from the charge levelled against them.

The quashing application is allowed.

(Sanjay Priya, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23.5.18
Transmission Date	23.5.18

