

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3451 of 2016

Arising Out of PS. Case No.-411 Year-2014 Thana- GARDANIBAGH District- Patna

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1. Gaitri Devi wife of Late Ramashish Ram
 2. Arun Kumar
 3. Barun Kumar
 4. Abinash Kumar
 5. Alok Kumar
 6. Amit Kumar Petitioner no. 2 to 6 are sons of Late Ramashish Ram All residents of Mohalla - Bishnupuri, p.s. - Gardanibagh, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Urmila Devi W/o Shri Binod Prasad resident of Shivpuri, p.s. Gardanibagh, Distt. - Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Surendra Kumar Mishra

For the Opposite Party/s : Mr. Kalyan Shankar(App)

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date : 18-09-2018

This petition under Section 482 Cr.P.C. has been filed for quashing the order dated 16.3.2015 passed by learned JM 1st Class, Patna in Gardanibagh P.S. case no. 411 of 2014 by which learned Magistrate has taken cognizance for the offence under sections 341, 323 379, 504 and 506/34 of I.P.C. against the petitioners.

Heard learned counsel for the petitioner, State and learned counsel for the opposite party no.2.

Learned counsel for the petitioners has submitted that instant case has been filed on account of land dispute. The



opposite party no.2 had earlier also lodged several cases against these petitioners to give pressure to settle civil dispute. The detail of those cases are mentioned in para 10 of the petition.

Learned counsel for the opposite party no.2 has submitted that there is specific allegation against these petitioners in the written report . It is alleged that the informant has purchased 14 dhurs of land as mentioned in the complaint petition. There was a *rasta* in the deed. A proceeding under Section 147 Cr. P.C. was initiated and the same was decided in favour of the opposite party no.2. The aforesaid order was challenged by the petitioners before the learned Sessions Judge, Patna vide Cr. Rev. no. 4334 of 2014 which was heard by learned Sessions Judge Patna on 5.7.2014 and 10.12.2014 who has set aside the order dated 17.6.14 passed by the learned Magistrate under Section 147 Cr.P.C. and remanded the case to the Executive Magistrate Patna Sadar with observation. The informant has alleged that on the date of occurrence these petitioners assaulted the informant and also snatched the golden chain and other jewellery.

The learned court below on the basis of the charge sheet submitted by the police has taken cognizance against these petitioners for the offence under Sections 341, 323, 379, 504



and 506/34 of the IPC.

This Court after looking into para 10 of this petition finds that earlier other criminal cases vide Gardanibagh P.S. case no. 231 of 2012 and Gardanibagh P.S. case no. 226 of 2012 have also been filed by opposite party no.2 against the petitioners to settle other civil dispute.

The proceeding under Section 147 Cr. P.C. was also initiated between the parties. Both the parties have appeared in that proceeding and matter has been remanded back by Sessions Court to Executive Magistrate.

In such circumstances, this Court finds that instant criminal case has been filed by opposite party no.2 to give pressure to petitioner to settle civil dispute with respect to property as mentioned in the written report. The Hon'ble Supreme Court in the case of *Mohammed Ibrahim and others. vs. State of Bihar & Anr. reported in (2009)8 SCC 751* has held that there is growing tendency of the complainants attempting to give the cloak of a criminal offence to matters which are essentially and purely civil in nature, obviously either to apply pressure on the accused, or out of enmity towards the accused, or to subject the accused to harassment.

Accordingly, the impugned order dated 16.3.2015 passed



by learned JM 1st Class, Patna in Gardanibagh P.S. case no. 411 of 2014 along with entire criminal proceeding against these petitioners are hereby set aside.

This Cr. Misc. petition is, accordingly, allowed.

(Sanjay Priya, J)

shyambihari/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	25.9.2018
Transmission Date	25.9.2018

