

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.3158 of 2015**

Arising Out of PS.Case No. -16 Year- 2013 Thana -GOPALGANJ COMPLAINT CASE District-  
GOPALGANJ

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1. Jan Mahammad  
2. Lal Mahammad  
3. Khan Mahammad  
4. Pan Mahammad All sons of Late Ish Mahammad  
5. Sabir Hussain Son of Lal Mahammad  
6. Dukhani, Wife of Late Ish Mahammad All are Resident of Vill-Tula Chhapar,  
P.S-Gopalpur,Distt.-Gopalganj

.... .... Petitioner/s

Versus

1. The State of Bihar  
2. Jainul Khatoon W/O Late Nasiruddin Ansari Resident of vill-Nawka Semra,P.S-  
Gopalpur,Distt.-Gopalganj

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Raghunath Singh  
For the State : Mr. Dr. Rabindra Kumar (APP)

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**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**

**ORAL JUDGMENT**

**Date: 25-07-2018**

Notice has already been issued to O.P. No. 2, which has  
been validly served on O.P. No. 2 personally, but nobody appeared on  
behalf of O.P. No. 2. Learned counsel for the State is present.

The petitioners have challenged the order dated  
18.01.2014 passed by the learned Judicial Magistrate 1<sup>st</sup> Class,  
Gopalganj in Complaint Case No. 16/2013, whereby the learned  
Magistrate has directed to issue summons against the accused persons  
named in Complaint Petition including the petitioners for their  
appearance in the case to face trial for offences under Sections 147



and 323 of the Indian Penal Code as well as the order dated 12.11.2014 passed by the learned Sessions Judge, Bhojpur at Ara in Cr. Rev. No. 1083/2014.

Xerox copy of the record of the Complaint Case No. 16/2013 was called for, which has been received.

From perusal of the aforesaid record, it appears that after taking cognizance the case is pending for appearance of the accused persons. It is alleged in the complaint petition that the complainant owns 1 Bigha, 14 Kathas of land which is under cultivation. The accused persons with other ante-social elements used to harass her for cultivating the aforesaid land and made demand of Rs. 5 lakhs. It is further alleged that on 23.12.2012 at 10:00 A.M., the accused persons entered into the house of the complainant and demanded money. The accused persons told that they would not allow her to cultivate the land and they would cultivate the same themselves till they were paid the aforesaid amount. It is further alleged that accused persons started ploughing her land and on information about it the complainant reached in her field and lodged protest on which the accused persons assaulted her with fists and slaps and also snatched Rs. 5,000/- from her.

The court below after holding enquiry found prima facie case against the petitioners for the offences under Sections 147 and



323 of the Indian Penal Code.

The Xerox copy of the S.A. of the complainant and the statement of three witnesses recorded during enquiry are available with the record.

From perusal of the S.A. of the complainant and the statement of the three witnesses, it appears that allegations made against all the petitioners are completely vague and omnibus. There is no allegation of specific overt act against these petitioners. It appears from the complaint petitioner itself that the instant case has been filed on account of land dispute. General and omnibus allegation is levelled against the petitioners. Therefore, the impugned order dated 18.01.2014 along with entire criminal proceedings against the petitioners is hereby quashed.

This Criminal Miscellaneous is allowed.

**(Sanjay Priya, J.)**

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