

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 44475 of 2014

Arising Out of P.S. Case No.-421 Year-2012 Thana- BAHADURPUR District- Darbhanga

1. Neeraj Kumar Jha

2. Saroj Kumar Jha

Both are son of Late Dhaneshwar Jha

3. Kameshwar Jha

4. Mohan Kumar Jha

Both are son of Badri Jha

All are resident of Mohalla/Village - Sahpur, P.O. - Oujhol, P.S. - Sahpur,
District – Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar

2. Punam Devi, Wife of Ramnath Jha, Resident of Village/Mohalla - Shahpur,
P.O. - Oujhol, P.S. - Bahadurpur, District - Darbhanga

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Sr. Advocate Mr. Krishna Chandra and Mr. Avanish Kumar, Advocates
For the Opposite Party/s	:	None
For the State	:	Mr. Jharkhandi Upadhyay, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 29-01-2019

Heard learned counsel for the petitioners and learned
A.P.P. for the State.



2. Despite service of notice on Opposite Party No. 2, nobody appeared on his behalf when the matter was taken up and heard.

3. The petitioners have moved the Court under Section 482 of the Code of Criminal Procedure, 1973, for the following relief:

“That the present application is being filed for quashing the order dated 29.11.2013 by which the learned Chief Judicial Magistrate, Darbhanga took cognizance of offence under Section 341,323,337,427,504,448 and 34 of the Indian Penal Code in connection with Bahadurpur P.S. Case No. 421/12 dated 22.11.2012 without there being any material against the petitioners.”

4. The allegation against the petitioners is of general assault and also destroying household articles and building material and also damaging a motorcycle.

5. Learned counsel for the petitioners submitted that the allegations are false and frivolous and only to create pressure on the petitioners to let the Opposite Party No. 2 and her family occupy the land belonging to them. It was submitted that the parties being agnates, for a dispute of land between them the matter travelled to the Court of D.C.L.R., who passed order on 15.06.2012, after hearing the parties, in favour of the petitioners and thereafter this false case has been lodged on November, 2012. Learned counsel submitted that the police had noted that the



Opposite Party No. 2 had refused to get her medical examination done to show as to what injury was caused, but still they submitted chargesheet going by the probability of the incident. Learned counsel submitted that the police at the place of occurrence have only found some scattered articles without there being any sign of a major incident.

6. Learned A.P.P. submitted that though the order of cognizance is in accordance with law, but he could not controvert the fact that there is a background with regard to land dispute and further that the parties are agnates and there is no injury report as also that the police have not found any sign of any major incident at the place of occurrence.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that a case for interference has been made out. The allegations, coupled with the finding of the police during investigation, as also there being a land dispute between the parties, who are agnates, which resulted in an order in favour of the petitioners and against Opposite Party No. 2, and also there being no representation on behalf of the Opposite Party No. 2 in the present proceeding, allowing the case to proceed seems to be unwarranted.



8. Accordingly, the application is allowed. The entire criminal proceeding arising out of Bahadurpur P.S. Case No. 421 of 2012 along with the order dated 29.11.2013, by which cognizance has been taken against the petitioners, stand quashed.

(Ahsanuddin Amanullah, J.)

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