

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23488 of 2015

Arising Out of PS. Case No.-3 Year-2008 Thana- AURANGABAD COMPLAINT CASE
District- Aurangabad

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1. Lalan Singh Son of Biran Singh
 2. Harendra Singh Son of Lalan Singh
 3. Biran Singh Son of Late Uadu Bansh Singh
 4. Baban Singh Son of Biran Singh
 5. Dharamendra Singh @ Guddu @ Dharmendra Kumar, Son of Lalan Singh
 6. Gaya Prasad Singh @ Gaya Singh, Son of Late Ganesh Singh
All Resident of village - Lakdihra, P.S. Obra, District - Aurangabad
- Petitioner/s

Versus

1. The State Of Bihar
 2. Arun Singh S/o Yadubansh Singh Resident of Village - Lakdihra, P.S. Obra, Distt. Aurangabad.
- Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nagendra Kumar Singh
For the Opposite Party/s : Mr.T.P.Mandal App

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 26-11-2019

Heard parties.

2. This criminal miscellaneous petition has been filed under Section 482 of Cr.P.C. for quashing the order dated 5.2.2015 passed by learned Sessions Judge, Aurangabad passed in criminal revision no.43 /2015 by which the learned revisional court dismissed the criminal revision and affirmed the order dated 3.3.2014 passed by learned Judicial Magistrate, 1st Class, Daudnagar passed in complaint case no. 3/2008 (Trial No.287/2013) by which the learned Judicial Magistrate dismissed the petition of petitioner filed under Section 245 of



Cr.P.C to discharge them.

3. Complainant /opposite party had filed a complaint in the court of CJM, Aurangabad alleging therein that on 22.4.2008 at about 8 p.m. the complainant was sitting at his shop of motor parts and lubricants and son of complainant Om Kumar Singh called him for dinner when accused persons (petitioners) variously armed with lathi, danda and deadly weapons came at the shop of complainant and abused him. Accused Biran Singh (petitioner) instigated other accused persons (petitioners) to loot the shop and set it on fire as petitioners were installing tower of BSNL in their land and not upon his land. It is further alleged that accused Lalan Singh, Baban Singh and Guddu Singh (petitioners) looted mobile and fled away. Accused Gaya Singh (petitioner) damaged the counter of the shop by lathi and on alarm being raised, family members of complainant assembled and accused (petitioners) fled away.

4. Altogether five witnesses were examined on behalf of complainant before charge who in their statement have supported the occurrence of theft, abuse and assault against the accused petitioners.

5. On the basis of materials collected during inquiry,



the trial court found prima face case to be made out against petitioners under Section 147, 380 and 504 IPC and took cognizance by order dated 11.11.2008 and issued summons for their appearance to face the trial and accused (petitioners) appeared before the trial court and were released on bail.

6. A petition under Section 245 of CR.P.C. was filed on behalf of accused (petitioners) to discharge them as there is no legal evidence or incriminating material against them for framing charge.

7. Learned trial court after hearing both the parties and considering and appreciating the evidence adduced in the court by the witnesses before charge has found that there are sufficient evidence on record to frame charges against accused (petitioners) for offence under Section 147, 380 / 149, 504/149 and dismissed the discharge petition of petitioners against which they filed the revision before the District Judge which was also dismissed by the impugned order by the revisional court after due consideration of materials available on record.

8. It has been submitted that alleged occurrence took place on 22.4.2008 at 8 p.m., however, complaint was filed on 29.4.2008 and there is no explanation for such a long delay. Witnesses who have been examined during inquiry are all



family members and there is no independent witness. There are serious contradiction in the statement of witnesses which falsifies the entire prosecution story. Present complaint case is a counter blast of case instituted by Baban Singh (petitioner) against the opposite parties on 24.4.2008 giving rise to Obra P.S. Case No. 52/2008 under Sections 342, 323, 24, 307, 379, 34 of IPC in which after investigation the case was found true and police submitted charge-sheet against opposite parties and trial court took cognizance, framed charges and trial commenced vide sessions trial no. 15/09.

9. The present complaint case was filed on false and baseless allegations only to coerce the petitioners to compromise and withdraw the Obra P.S. Case No. 52/2008. Informant or witnesses or relatives of informant have been made accused in complaint case. As such, petitioners pray to allow their discharge petition.

10. After hearing the counsel for the parties and perusing the materials available on record, this Court finds that the trial court as well as revisional court has considered the discharge petition filed by petitioners and on consideration and appreciation of evidence and materials available on record found that there are sufficient materials and evidence against the



petitioners to frame charges against them under Sections 147, 380/149, 504/149 of IPC .

11. This Court is not inclined to interfere in the orders passed by the trial court as well as revisional court while exercising power under its inherent jurisdiction. It is not the case of petitioners that there is no evidence or material against them in order to frame charges under Sections 147, 380/149 and 504/149 of IPC. Discharge petition cannot be allowed only on the ground that present case is a counter blast of case filed by petitioners when there are sufficient evidence produced before the trial court and on consideration of which trial court has found that there is sufficient evidence against petitioners to frame charge. Charges can be framed even there exist grave suspicion against the accused (petitioners).

12. After hearing the counsel for the petitioners as well as State, this Court does not find any merit in this petition and accordingly, same is dismissed.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.12.2019
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