

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78768 of 2019

Arising Out of PS. Case No.-142 Year-2019 Thana- DAGARUA District- Purnea

1. Miru Murmu @ Paro Murmu, aged about 60 years, male, son of Late Mangal Murmu,
 2. Baidyanath Murmu @ Baijanath Murmu, aged about 65 years, male, son of Late Mangal Murmu,
 3. Basant Murmu, aged about 26 years, male, son of Miru @ Paro Murmu,
 4. Tallu Murmu, aged about 27 years, male, son of Miru @ Paro Murmu,
 5. Talamai, aged about 50 years, female, wife of Miru @ Paro Murmu,
 6. Hopain @ Hopain Murmu, aged about 32 years, male, son of Baijnath Murmu @ Baidyanath Murmu,
 7. Hema Murmu @ Lav Kumar Murmu, aged about 30 years, male, son of Baijnath Murmu @ Baidyanath Murmu,
 8. Fakir Mahaldar, aged about 45 years, male, son of late Turai Mahaldar,
 9. Kare Mahaldar, aged about 40 years, son of late Sampat Mahaldar,
- All are resident of Village - Rampur Kodhaili, P.S. - Dagarua, District - Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vikram Deo Singh, Advocate
For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 11-09-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Vikram Deo Singh, learned counsel for the petitioners and Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the



State.

3. The petitioners apprehend arrest in connection with Dagarua PS Case No.142 of 2019 dated 09.08.2019, instituted under Sections 452, 342, 379, 436, 354, 307/34 of the Indian Penal Code.

4. Except petitioners no. 4 and 7, the rest are named in the FIR. They are alleged to have confined the informant in her house and robbed 30 bags of paddy, 2 bags of rice, one Honda Machine, a solar light, ornaments and cash rupees thirty thousand and also assaulted the informant and torn her clothes outraging her modesty and also of trying to kill her and set fire to her house.

5. Learned counsel for the petitioners submitted that the entire case is false and fabricated. It was submitted that the husband of the informant, having taken ill, needed money for expenditure and had executed two agreements dated 22.12.2014 and 06.01.2015 for sale with petitioners no. 8 and 9, but soon thereafter he died and the informant, in collusion with others, was not respecting the agreements due to which the petitioner no. 2 filed Miscellaneous Case No. 480 of 2019 and petitioner no. 8 also filed Miscellaneous Petition No. 1253 of 2019 before the Chief Judicial Magistrate, Purnea, against the informant, one



Sabita Devi, Ganesh Biswas and his wife Rita Devi, who were instigating the informant not to transfer the land in favour of the petitioners no. 8 and 9. It was submitted that the conduct of the informant right from the beginning has been dishonest as she had ousted her step-son from the entire property left by his father and late husband of the informant due to which he had to construct his own house on his ancestral land. Learned counsel submitted that the informant and the petitioners are agnates. It was submitted that the informant has got a proceeding started under Section 107 of the Code of Criminal Procedure, 1973, against the petitioners vide Case No. 409-M of 2019, which itself shows that there was land dispute between the parties. Thus, it was submitted that the present has clearly been filed as a tool to exert pressure on the petitioners to give up claim on the said land. Learned counsel submitted that though there is allegation of brutal assault, but in the Injury Report the doctor has stated that the victim only complained of body ache. It was further submitted that the FIR itself has been lodged after two days for which there is no explanation. It was submitted that upon inspection the police has not found any house burnt and only a small portion of the hut was found to be a little burnt and further, nothing has been recovered from the petitioners.



Learned counsel submitted that the petitioners have no criminal antecedent.

6. Learned APP, from the case diary, submitted that the informant in her re-statement has supported the prosecution story. However, he did not controvert the fact that only interested witnesses have supported the story and Injury Report does not disclose any injury on the body and further, that nothing has been recovered from the petitioners and also that no house was burnt and only a small portion of a thatched roof was found burnt as also there being no criminal antecedent against the petitioners.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs.25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the C.J.M., Purnea, in Dagarua PS case No.142 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973, and further (i) that one of the bailors shall be a close relative of the petitioners and (ii) that the petitioners shall cooperate in the matter, both with the



police/prosecution and the Court. Failure to cooperate shall lead to cancellation of their bail bonds.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

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