

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 27621 of 2021

Arising Out of PS. Case No.-411 Year-2020 Thana- GOGRI District- Khagaria

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1. Ghanshyam Thakur, Male, aged about 52 years, Son of Late Bhumi Thakur.
 2. Rajeev Kumar, Male, aged about 28 years, Son of Ram Sharan Thakur.
 3. Pratush Kumar, Male, aged about 25 years, Son of Ram Sharan Thakur.
- All are resident of village- Kurmi Tola, Ward No.- 13, PS- Gogari, District- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Kamal Kishore Singh, Advocate
For the State	:	Mr. Tarkeshwar Nath Thakur, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 03-08-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioners on 26.07.2021, which was allowed.

3. Heard Mr. Kamal Kishore Singh, learned counsel for the petitioners and Mr. Tarkeshwar Nath Thakur, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

4. Learned counsel for the petitioners submitted that petitioner no. 1, namely, Ghanshyam Thakur has been arrested



and, thus, he may be permitted to withdraw the petition on his behalf.

5. In view thereof, the petition on behalf of petitioner no. 1, namely, Ghanshyam Thakur, stands disposed of as withdrawn and is restricted to petitioners no. 2 and 3, namely, Rajeev Kumar and Pratush Kumar.

6. The petitioners no. 2 and 3 apprehend arrest in connection with Gogari PS Case No. 411 of 2020 dated 22.11.2020, instituted under Sections 448, 341, 323, 504, 506, 307, 324, 354(A), 379/34 of the Indian Penal Code.

7. The allegation against the petitioners and two others is of assault on the informant side resulting in injuries and specific against the petitioners no. 2 and 3 that they assaulted the brother of the informant, namely, Bilash Mahto with *lathi* and *danda* on his mouth and head and against petitioner no. 1, that he also fled away with gold ornaments worth Rs. 3 lakhs.

8. Learned counsel for the petitioners no. 2 and 3 submitted that as per the FIR itself, the parties are neighbours and due to land dispute, they have been falsely implicated in the present case. It was submitted that earlier in the year 2011, the father of the petitioners no. 2 and 3 had filed a case before the authorities against the petitioners for demarcation of their



boundary and order was passed for such demarcation and due to the same, the dispute is continuing. It was submitted that for the same incident, the wife of the petitioner no. 1 has filed Gogari PS Case No. 410 of 2020, prior to the present case, under Sections 448, 341, 323, 324, 504, 506, 354 (B), 307, 379/34 of the Indian Penal Code. It was submitted that both the sides have received injuries and the injury which is said to have been caused by the petitioners no. 2 and 3 on Bilash Mahto has been found to be simple in nature as only lacerated wound on frontal region, lacerated wound on left side of angle of mouth and lacerated wound on left little finger has been noted which are simple in nature caused by hard blunt substance. It was submitted that the injury of petitioner no. 2 in fact has been found to be grievous after CT scan. Learned counsel submitted that the petitioners no. 2 and 3 have no other criminal antecedent.

9. Learned APP submitted that the allegation of assault is against the petitioners. However, in view of the injury report, copy of which has been brought on record, it was not controverted that there is simple injury caused on the victim Bilash Mahto by hard blunt substance.

10. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the



Court finds substance in the contentions of learned counsel for the petitioners no. 2 and 3. There being previous land dispute and the parties being neighbours, as has been admitted in the FIR itself, as also there being a counter case for the same incident and injuries on both the sides and further the injury on the victim who is alleged to have been assaulted by the petitioners no. 2 and 3, being simple in nature caused by hard blunt substance, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner no. 2, namely, Rajeev Kumar and petitioner no. 3, namely, Pratush Kumar 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 learned Chief Judicial Magistrate, Khagaria in Gogari PS Case No. 411 of 2020, 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 no. 2 and 3, (ii) that the petitioners no. 2 and 3 and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioners no. 2 and 3 and (iii) that they shall co-operate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to co-operate shall lead to cancellation of their bail bonds.



11. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners no. 2 and 3, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioners no. 2 and 3.

12. The petition stands disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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