

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No. 9057 of 2021**

Arising Out of PS. Case No.-1445 Year-2019 Thana- DARBHANGA COMPLAINT CASE  
District- Darbhanga

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1. Arbind Kumar @ Dilip Kumar Mahto, aged about 40 years, Male Son of Raghunath Mahto.
  2. Tulsi Das, aged about 25 years, Male, Son of Sukhdeo Mahto.
  3. Ram Singh @ Ram Prasad Singh, aged about 41 years, Male, Son of Achelal Mahto.
  4. Deepak Kumar, aged about 20 years, Male, Son of Ram Sudeen Mahto.  
All resident of Village-Mayapur, PS- Bahera, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mahesh Kumar, Son of Yugeshwar Mahto, Resident of Village-Baghat, PS- Manigacchi, District-Darbhangha.

... .. Opposite Party/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Vinay Kumar Mishra, Advocate   |
| For the State        | : | Mr. Dilip Kumar No. 1, APP         |
| For the Informant    | : | Mr. Shailendra Kumar Jha, Advocate |

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

**Date : 23-08-2021**

The matter has been heard *via* video conferencing.

2. Heard Mr. Vinay Kumar Mishra, learned counsel for the petitioners; Mr. Dilip Kumar No. 1, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State and Mr. Shailendra Kumar Jha, learned counsel for the informant.

3. The petitioners apprehend arrest in connection with Complaint Case CR No. 1445 of 2019 dated 19.09.2019,



instituted under Sections 324, 341 and 384 of the Indian Penal Code.

4. The allegation against the petitioners is of having assaulted the complainant and also of putting him to fear of death on the point of knife due to demand of extortion of rupees ten thousand and also of taking away rupees eighteen thousand cash and clothes worth Rs.7650/- from the complainant.

5. Learned counsel for the petitioners submitted that it is a false case and that is the reason why no police case has been filed despite the fact that the incident is said to have taken place in the main market. It was further submitted that though the allegation is that the incident took place on 18.09.2019, but the complainant neither moving before the police nor there being any averment that the police refused to entertain the application, the story in the complaint becomes highly doubtful and suspicious. It was submitted that the brother of the informant had earlier filed MR No. 205 of 2019 before the Sub Divisional Magistrate, Benipur against the petitioners no. 1, 2 and 3 and the father of the petitioner no. 4, under Section 144 of the Code of Criminal Procedure, 1973 with regard to land dispute in which, by final order dated 31.08.2019, the case was disposed of observing that the second parties, including the petitioners, were law abiding



citizens and if the first party (informant's brother) had any grievance, he may raise it before the Civil Court.

6. The Court upon hearing learned counsel for the petitioners and learned APP for the State had issued notice to the complainant-opposite party no. 2. The petitioners have also filed supplementary affidavit.

7. Learned counsel submitted that the entire lands in question were gifted voluntarily by the predecessors-in-interest of the complainant for the construction of temple and because the complainant was trying to interfere in the possession of such land by claiming it to be his private land, the villagers and the petitioners had objected to the same just to maintain the sanctity of the land of the temple, due to which the present false case has been instituted. It was submitted that from perusal of the order dated 31.08.2019, of the Sub Divisional Magistrate, Benipur in MR No. 205 of 2019, it would be clear that there is no dispute with regard to the lands in question belonging to the temple and further, the first party i.e., the informant's side, if so aggrieved was free to raise the issue before the Civil Court. Thus, it was submitted that when the lands in dispute did not belong to the informant, there could not have been any demand of extortion by anyone, including the petitioners.



8. Learned APP submitted that the Sub Divisional Magistrate, Benipur has clearly held that the lands belonged to the temple and there was no dispute with regard to the same.

9. Learned counsel for the complainant submitted that the petitioners had demanded extortion. However, he was not in a position to answer as to how the said land which is claimed by the complainant belonged to him in view of the order of the Sub Divisional Magistrate, Benipur in MR No. 205 of 2019 dated 31.08.2019, more so, when despite liberty given to move before the Civil Court, the same has not been done and rather after more than one month of the said order, the present complaint case has been filed.

10. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, it appears that the complainant is claiming ownership of land which has not been found to belong to him, in a proceeding which was filed by the brother of the complainant in which it has been held that the lands belonged to the temple and were in its possession and there was no controversy and observation was made that if any claim was there on the side of the complainant's brother, he could approach the Civil Court and the same not having been done, the present complaint case having been filed after over a



month of the said order, as also the fact that another complaint case has been filed by the said brother of the complainant who had filed the MR case, the Court is persuaded to grant pre-arrest bail to the petitioners.

11. Accordingly, 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 learned Chief Judicial Magistrate, Darbhanga in Complaint Case CR No. 1445 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, (ii) that the petitioners and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioners 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.

12. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the petitioners, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioners.



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

**(Ahsanuddin Amanullah, J.)**

P. Kumar

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