

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8694 of 2019

Arising Out of PS. Case No.-2656 Year-2018 Thana- VAISALI COMPLAINT CASE
District- Vaishali

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1. Hari Mohan Kumar Son of Bindeshwar Roy Resident of Village-Rohua,
P.S.- Shahpur, Distt- Vaishali
 2. ChandraMohan Kumar son of Bindeshwar Roy Resident of Village-Rohua,
P.S.- Shahpur, Distt-Vaishali
 3. Arti Kumari Wife of Hari Mohan Kumar Resident of Village-Rohua, P.S.-
Shahpur, Distt-Vaishali

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashhar Mustafa
For the Opposite Party/s : Mr.Awadhesh Kumar Singh

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

8 12-05-2022 Heard counsel for the parties.

The present application has been filed under Section 482 of the Criminal Procedure Code challenging the order dated 18.12.2018 passed by the Chief Judicial Magistrate Vaishali in connection with Trial No. 1595 of 2018 arising out of Complaint Case No. 2656 of 2018 whereby cognizance has been taken against the petitioners under Sections 323, 354(B), 504 and 506 of the Indian Penal Code.

Prosecution case in brief is that OP no. 2 filed a complaint case in the Court of learned Chief Judicial Magistrate on 20.09.2018 stating therein that the land situated at the place



of occurrence is his ancestral property, which is in his peaceful possession. It is further alleged that with intent to grab her land, the accused persons (petitioners) having armed arrived at her plot and started raising boundary wall and on protest by OP no. 2, petitioner no. 1 caught her hair pushed her on the ground and tore her blouse. It is further alleged that petitioner no. 3 also assaulted OP no. 2 by means of fists and legs. Upon hearing the sound of her cry, neighbours assembled and protected her life and dignity. Petitioner no. 1 threatened that if any one would come on the plot in future, the entire family of OP no. 2 will be finished. After presentation of complaint, OP no. 2 was examined on SA followed by examination of EW-1, EW-2 and EW- 3 and thereafter, having considered the statement of witnesses and entire material available on record, the learned court below took cognizance against the petitioners for the offence punishable under Sections 323, 354(B), 504 and 506 of the Indian Penal Code.

It is contended on behalf of the petitioner that as a matter of fact, complaint was registered in the backdrop of land dispute with respect to a piece of land bearing Khata No. 1066 and Khesra No. 2123 situated at Village Dighi Purvi, Thana- Hajipur Sadar, Vaishali. The aforesaid land measuring two



katthas, was purchased by petitioner no. 3 from its rightful owner namely, Subodh Kumar through sale deed no. 6686 dated 19.10.2016 and after the said purchase the same was mutated in the name of petitioner no. 3 vide order dated 15.11.2016. thereafter, rent receipt was issued in her name on 22.11.2016 and Land Possession Certificate was also issued on 08.05.2018. All these facts goes to show that land in question belonged to one Shatrughan Prasad Singh who is admittedly, father of the seller in the sale deed dated 19.10.2016. For the same piece of land proceeding under Section 144 Cr.P.C was also initiated between the parties for which a civil suit was also filed in the court below on 18.07.2018 by the brother of husband of OP No. 2.

It is next submitted on behalf of petitioners that present criminal case has been instituted with malicious intention only with a view to take revenge and in retaliation to Sadar PS Case No. 581 of 2018 which was registered on 17.09.2018 under Sections 147, 149, 384, 379 and 427 of the Indian Penal Code against the family members of OP No. 2 by Arti Kumari. The entire allegations are completely vague, absurd and imaginary.

None appears on behalf of Opposite Party No. 2.



However, counsel for State opposed and submitted that there is no error in the impugned order and the learned court below after going through the entire material available on record taken cognizance which does not require any interference by this Court.

Admittedly, there is land dispute between the parties in respect of a piece of land for which civil suit is pending. Just three days prior to institution of the present case, Sadar PS Case No. 581 of 2018 was lodged by the petitioner No. 3 against the family members of the informant. There are material contradiction in the statement recorded on SA under inquiry indicating false accusation in the complaint petition.

From bare perusal of FIR, it appears that allegations are vague, absurd and are in nature of vendetta to settle civil dispute.

In view of the rival submission of the parties and materials on record, this court is of the view that continuation of criminal proceeding against the petitioner would be abuse of the process of court and not in the interest of justice, hence the impugned order dated 18.12.2018 passed by the Chief Judicial Magistrate Vaishali in connection with Trial No. 1595 of 2018 arising out of Complaint Case No. 2656 of 2018 against these



petitioners stands quashed.

Accordingly, this quashing application is allowed.

(Prabhat Kumar Singh, J)

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