

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4332 of 2021**

Arising Out of PS. Case No.-38 Year-2017 Thana- SC/ST District- Rohtas

1. Sandeep Kumar Dubey @ Neelam Dubey Son of Rajbali Dubey Resident of Village - Durgapur, P.S.- Indrapuri, Distt.- Rohts.
2. Sanjay Dubey @ Sanjay Kumar Dubey Son of Srikant Dubey Resident of Village - Durgapur, P.S.- Indrapuri, Distt.- Rohts.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Kariman Ram Son of Late Mudrika Ram Resident of Village - Mathuri, P.s.- Dalmiyanagar, Distt.- Rohts.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Mithilesh Kumar Singh
For the Respondent/s : Mr.Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

5 10-08-2022 Heard learned counsel appearing on behalf of the appellants and the State.

This application has been filed for quashing of order dated 06.11.2019 passed by learned 1st Additional Sessions Judge, Rohtas at Sasaram in connection with SC/ST (Dehri) P.S. Case No. 38 of 2017 corresponding to Regd. No. 160 of 2017, whereby and whereunder he has taken cognizance under Sections 341, 384, 379, 504/34 of the Indian Penal Code and sections 3(1)(r) of the SC/ST (POA) Act,



Prosecution case in brief is that informant/respondent no. 2 gave a written report to the police station alleging therein that he is an elected Mantri-cum-Koshadhyaksha of Jila Matsayajivi Sangh, Dehri and he was allotted Durgapur “Aahar” and “Pokhar” by the District Fisheries Officer for fish farming. Informant/respondent no. 2 deputed one Ramadhar Ram as a caretaker for the Aahar and Pokhar, but the appellants along with other accused persons used to threaten Ramadhar Ram that unless and until the informant/respondent no. 2 would not pay money as *Rangdari* he cannot do fishing. It is further alleged that on the alleged date and time of occurrence, while he was fishing in the Aahar and Pokhar, in the meantime, appellants abused him and snatched cash of Rs. 8000/- from his pocket. After investigation, the police submitted final form against the appellants saying it mistake of fact. Thereafter, informant/respondent no. 2 filed protest-cum-complaint petition before the court below against the appellants and others. Thereafter, after examining the witness under Section 202 of the Cr.P.C, learned court below took cognizance against the appellants and others.

Counsel for appellants assails the impugned order on the ground that due to dispute between the parties over the



Fishing Right over the Aahar and Pokhar this false case has been lodged with malicious intention only to harass the appellants and others by taking undue advantage of a special law. Present case is purely of civil dispute and this criminal case has been filed to harass the appellants and others and as such, continuation of proceeding is abuse of the process of court and as such, fit to be set aside.

However, learned Spl. P.P. vehemently opposed the prayer and submitted impugned order is just and fair and no interference is required by this court at this stage. There is specific and direct allegation against these appellants of abusing and demand of *rangdari* and snatching of cash from possession of informant/respondent no. 2. The prosecution case was duly supported by the witnesses during enquiry and as such, no interference is required.

Having considered the rival submissions advanced on behalf of the parties and materials available on record, this court does not find any merit in the submission made on behalf of appellants. At the stage of taking cognizance Magistrate is mainly concerned with the allegation made in the complaint/FIR or evidence led in support of the same. He is not required to explicitly state the reasons that there is sufficient ground for



proceeding. He is only to satisfy and there are sufficient ground for proceeding against the accused. The grounds taken by the appellants for quashing the impugned order fall within the purview of probable defence which can only be examined by the court below during trial.

Accordingly this quashing application dismissed being devoid of merit.

(Prabhat Kumar Singh, J)

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