

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6374 of 2023

Arising Out of PS. Case No.-168 Year-2022 Thana- MAJHAULIA District- West Champaran

1. WAJEEB ALAM SON OF SAIMUDDIN MIYAN R/O VILLAGE- SEMRA BRIT, WARD NO.12, P.S.- MAJHAULIYA, DISTRICT- WEST CHAMPARAN
2. SAIMUDDIN MIYAN SON OF ABDUL GANI MIYAN R/O VILLAGE- SEMRA BRIT, WARD NO.12, P.S.- MAJHAULIYA, DISTRICT- WEST CHAMPARAN

... .. Petitioner/s

Versus

1. The State of Bihar BIHAR
2. SHABBIR ALAM SON OF ABDUL ZALIL MIYAN R/O VILLAGE- SEMRA VRIT, WARD NO.12, P.S.- MAJHAULIYA, DISTRICT- WEST CHAMPARAN

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar Tiwary, Advocate
For the Opposite Party/s : Mr. Md. Mushtaque Alam

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 29-04-2023 Heard the parties.

This application has been filed for quashing the order dated 25.05.2022 passed by learned Chief Judicial Magistrate, Bettiah, West Champaran in connection with Majhauria P.S. Case No. 168 of 2022 whereby and whereunder the cognizance for the offences punishable under Section 323 and 504 of the Indian Penal Code has been taken against the petitioners.

The prosecution story in brief is that the O.P. No. 2 filed petition of complaint bearing Complaint Case No. 220(C) of 2022 before learned Chief Judicial Magistrate, Bettiah, West



Champaran alleging therein that 19 accused persons named in the Complaint Case on 26.12.2021 at about 8 A.M. reached at graveyard situated at Village- Semra, P.S. Majhauriya, District West Champaran, appertaining to Khata No. 61, Khesra No. 597, Area 1 Katha 3 Dhur to forcefully capture and change the nature of the graveyard and started digging soil and cultivation. On the protest of the complainant, the conspiracy and forgery came that Saifuddin Miyan, Wajeeb Alam and Kaljalma has obtained registered sale deed to grab the land of graveyard. The complainant fled away to save his life. Again on 27.01.2022 at about 10 A.M., all accused persons came with arms and started to capture land of complainant appertaining to Khata No. 103, Khesra No. 551, Area 8 Katha. Wajeeb Alam is said to have by threatened on gun point that the complainant will not keep any interest on the land of Graveyard. It is also alleged that they started abusing and assaulting the family members and entered into the house of the complainant, broke the articles and demanded Rs. 5 Lacs as ransom. It is also alleged that Taiyab Ansari and Gurdeli Alam took away ornaments and cloths of Rs. 1 Lakhs 20 thousand rupees cash. Kaljama is alleged to have assaulted with knife at the neck of brother of the complainant. The complaint petition was forwarded to the police station and



the FIR registered as Majhaulia P.S. Case No. 168 of 2022, for the offence alleged under Section 420, 406, 120(B), 448, 380, 307, 384, 295, 323, 504, 506, 34 of the Indian Penal Code and Section 27 of Arms Act against nineteen accused persons.

From reading the F.I.R., it appears that the petitioner has tried to usurp the land of the *Kabristan* and for that the present case has been registered and charge-sheet has been submitted finding that the petitioner has committed the offence.

In this view of the matter, this application is dismissed with liberty to the petitioner to raise all the grounds at the time of discharge.

(Sandeep Kumar, J)

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