

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37187 of 2015**

Arising Out of PS. Case No.-26 Year-2013 Thana- BUXAR COMPLAINT CASE District-
Buxar

-
1. Binod Kumar Chaubey @ Binod Chaubey son of Late Ramanand Chaubey.
 2. Rabin Chaubey son of Binod Chaubey.
 3. Anand Chaubey @ Anand Gautam son of Binod Chaubey.
 4. Golu Chaubey @ Abhishek Gautam son of Binod Chaubey. All are Residents of Village and Post- Khiraoli, P.S.- Dumraon, District- Buxar.

... .. Petitioner/s

Versus

State Of Bihar and Anr

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nawal Kishor Prasad, Advocate
For the Opposite Party/s : Mr. Madan Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER**

3 17-07-2023 Heard learned counsel for the petitioners and learned
APP for the State.

None appears for Opposite Party No. 2 despite valid
service of notice.

This application has been filed for quashing of order
dated 10.06.2015 passed by learned Judicial Magistrate-1st
Class, Buxar in Complaint Case No. 26C of 2013/ 33TR 15 by
which learned Magistrate has taken cognizance for the offences
under Sections 323, 379 of the Indian Penal Code.

It is alleged that while the petitioners were closing the
road of the complainant, the complainant objected, upon which
petitioners started abusing and assaulting the complainant.



It has been submitted by learned counsel for the petitioners that the present complaint is a counter blast to the earlier complaint bearing Complaint Case No. 682C of 2012 and Title Suit No. 54 and 2012 filed by the petitioners' side.

From reading of the entire complaint, it appears that a civil dispute is being given a colour of criminal case and the present proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused persons.

In view of the law laid down by Hon'ble Supreme Court in the case of *State of Haryana Vs. Ch. Bhajan lal & Others* reported in *AIR 1992 SC 604*, this application is allowed. The impugned order dated 10.06.2015 passed by learned Judicial Magistrate-1st Class, Buxar in Complaint Case No. 26C of 2013/ 33TR 15 is hereby quashed in the interest of justice.

(Sandeep Kumar, J)

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