

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28751 of 2015

Arising Out of PS. Case No.-46 Year-2013 Thana- NALANDA District- Nalanda

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1. Arun Kumar Son of Sri Anandi Prasad Singh
 2. Aniket Kumar Son of Arun Kumar Both are residents of Village - Kool, P.O. and P.S. and District - Nalanda.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Ashok Kumar Son of Anandir Prasad Singh Resident of Village - Kool, P.O. and P.S. and District - Nalanda.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Satya Ranjan Sinha
For the Opposite Party/s : Mr.Rana Randhir Singhapp

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 16-02-2023 Heard learned counsel for the petitioners and learned counsel for the State. No one appears for the opposite party No. 2 despite valid service of notice.

This application has been filed for quashing the order dated 06.05.2015 by which the discharge application of the petitioner has been dismissed.

The F.I.R. was registered against the petitioners by the informant under Sections 341/323/379/307/504/34 of the I.P.C. Chargesheet has been submitted under Sections 341/323/379/307/504/34 of the I.P.C.

The prosecution case in short is that the petitioner and his son took away twelve bags of potatoes and assaulted the



informant. The petitioner No. 1 is the brother of the informant and petitioner No. 2 is the nephew of the informant.

It has been argued by learned counsel for the petitioners that the present case is a malicious prosecution because of the family dispute and no offence is made out and the allegation of assault is just a superaddition to make out a case.

Learned counsel for the State has opposed the application and has submitted that the offence is made out and the petitioners should face trial.

I have gone through the contents of the materials available on record and have considered the arguments. In the opinion of this Court, this is a malicious prosecution by one brother against another brother and nephew. In these circumstances, the prosecution is not fit to be continued.

Accordingly, the present application for quashing the discharge order dated 06.05.2015 passed in Nalanda P.S. Case No. 46/2013 is quashed. It is, accordingly, allowed.

(Sandeep Kumar, J)

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