

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40903 of 2019

Arising Out of PS. Case No.-437 Year-2016 Thana- SITAMARHI COMPLAINT CASE
District- Sitamarhi

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1. Shiv Chandra Mahto Son Of Late Muneshwar Mahto Resident Of Village- Susand, P.S.- Sursand, District- Sitamarhi
 2. Vijay Kumar Son Of Shiv Chandra Mao Resident Of Village- Susand, P.S.- Sursand, District- Sitamarhi
 3. Abhay Kumar Son Of Shiv Chandara Resident Of Village- Susand, P.S.- Sursand, District- Sitamarhi
 4. Bittu Kumar @ Vitu Kumar @ Kushagra Ranjan Son Of Shiv Chandra Mahto Resident Of Village- Susand, P.S.- Sursand, District- Sitamarhi
 5. Ali Hasan @ Ali Hasan Nadaf Son Of Late Shujan Nadaf Resident Of Village- Susand, P.S.- Sursand, District- Sitamarhi

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ram Chandra Mahto Son of Muneshwar Mahto Resident of Village- Susand, P.S.- Sursand, District- Sitamarhi

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Advocate
For the Opposite Party/s : Mr. Anish Chandra, App

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 28-03-2023 Heard the learned counsel for the parties.

This application has been filed for quashing the order dated 27.08.2018 passed in Criminal Revision No. 85 of 2018 by which the learned District and Sessions Judge, Sitamarhi allowed the revision application filed by the opposite party no. 2 as well as the order dated 17.01.2019 passed in T.R.No. 3102 of 2019 arising out of Complaint Case No. C1-437 OF 2016.



As per the prosecution story:- *“one Ram Chandra Mahto filed a case before the Learned Sub-Divisional Judicial Magistrate, Pupri, Sitamarhi, stating there in inter-alia that the petitioner no. 1 is his own brother of the complainant and there are several cases going on between the parties in the court and on the date of occurrence i.e. 11.12.2016, he was on his medical shop and petitioner no. 1 came to the shop of the complainant and ask him for compromised in the cases going between the parties and then complainant asked the petitioner no. 1 that the petitioner no. 1 obtained the service of teacher on the basis of compassionate ground after the death of their father and he used the forged affidavit for getting the service on the compassionate ground and he grab the amount of granted by the department after the death of the father and for that there is confliction between both of them and complainant asked the petitioner no. 1 that compromise well be held with consent of the parties and thereafter petitioner no. 1 called all the accused persons and told that "Saale ka Dukan loot lo" and thereafter all the accused persons entered into the shop of the complainant and all the accused persons armed with deadly weapon and petitioner no. 5 put the trigger on his neck and due to fear of life complainant had thrown the medicine on the road and destroy the medicine by feet and complainant suffered loss of 20,000 and petitioner no. 4 took away 1600 Rupees and all the accused persons dragged the complainant outside the shop and assaulted him by fists and slaps and on Hulla nearby people came there and when complainant was going to police station then all the accused persons raised alarm if the case was instituted in the police station then he is ready for dire consequence.”*

It has been submitted by the learned counsel for the petitioners that the petitioner no. 1 and the opposite party no. 2 are the brothers and because of the land dispute, this false case has been filed. It is further been submitted by the learned counsel for the petitioners that there are cases filed by both the parties against each other and the partition suit no. 256 of 2014 is pending between the parties which has been filed by the opposite party no. 2.

It has also been submitted by the learned counsel for



the petitioners that the complaint has been filed with malicious intention only to wreak vengeance upon the petitioners.

I have gone through the records of the case. It is an admitted fact that two brothers are fighting and they are already contesting a civil suit and the present case is nothing but just to pressurize the petitioners.

In view of the law laid down by the Hon'ble Supreme Court in the case of *State of Haryana vs Bhajan Lal 1992 Supp (1) SCC 355* this application is allowed and the impugned order dated 27.08.2018 passed in Criminal Revision No. 85 of 2018 is hereby quashed.

(Sandeep Kumar, J)

Shishir/Vikas

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