

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8266 of 2016

Arising Out of PS. Case No.-711 Year-2012 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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1. Parmeshwar Rai and Ors son of Late Ramji Rai
 2. Harish Chandra Rai Son of Shri Ram Bilash Rai
 3. Rajesh Rai, son of Late Bisheshwar Rai
 4. Suchi Kumar Rai @ Suchi Rai, Son of Sri Fuddi Rai Amresh @ Amresh Rai @ Phuddy Roy Agrawal
 5. Chandeshwar Rai, Son of Shri Bishundeo Rai All are residents of Village- Narhan, Tola Ramgarh, P.S.- Bibhutipur, District- Samastipur.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Krishna Murari, son of Shri Kanha Rai, Resident of Village- Narhan, Tola Ramgarh, P.S.- Bibhutipur, District- Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vijay Kumar
For the Opposite Party/s : Mr.Shailendra Kumar 1 App

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 18-04-2023 Heard learned counsel for the parties.

This application has been filed for quashing the order dated 18.7.2014, passed by learned Judicial Magistrate, 1st Class, Rosera in T,R.No. 4403 of 2014, arising out of Complaint Case No.711 of 2012, by which learned Magistrate has taken cognizance Under Section 379 of the Indian Penal Code.

The prosecution story is that the complainant was a Trader and was doing business of grains with his son and was having two godowns of grain, for these purposes, out of which,



while one was in Narhan market, another one was at the place of occurrence.

It is alleged that the land at the place of occurrence was purchased on his behalf on 5.11.1984 from one Janak Lal Rai and after mutating his name construction was made over it, which was being used as godown.

It is further alleged that accused Parmeshwar Rai told him to donate the land, over which godown was situated, for making construction of a school building, upon which the complainant replied him that he himself was a rich man, they why himself was not donating land for school building. The said accused then gave him a threatening that he was not aware with his power, as he was capable to take possession of this land and building.

It is alleged that in the meantime, the complainant heard the sound of noise and when he came out from his house, he saw that about 22-25 persons, armed with deadly weapons, were standing out side his godown and accused Parmeshwar Rai carrying pistol in his hand gave an order to commit loot in the godown and shift the children in it.

It is further alleged that the accused Parmeshwar Rai caught the complainant and accused no.2 and 3 namely



Rajesh Rai and Sujeet Rai respectively put the signature of the complainant and his son forcibly on three stamp papers. Thereafter, on the orders of Parmeshwar Rai, the accused persons, after breaking the doors of godown, looted away 22 quintals of Saunf and 15 quintals of Razma. As per allegation, the accused no.2 Rajesh Rai, on the point of pistol, looted away golden chain from the neck of son of the complainant, valued about Rs.40,000/-.

It is alleged that after not instituting of case by the Officer-In-charge, the instant complaint was lodged on behalf of the Complainant.

Learned counsel for the petitioners submits that there is general and omnibus allegation in the F.I.R. The mode for transportation has not been mentioned and the story made out in the complaint seems improbable. When the story seems improbable, there is no option left to quash the prosecution.

Learned counsel for the petitioners has relied upon the judgment of the Hon'ble Supreme Court in the case of ***Bhajan lal vs State of Haryana Air 1992 SC 604.***

Learned counsel for the opposite party no.2, Mr. Krishna Chandra has submitted that the allegation is serious and the complainant will prove the case at the state of trial.



I have considered the submissions of the parties in view of the absurdity of the allegation which cannot be believed, this application is allowed.

The Tr. No. 4403 of 2014, arising out of Complaint Case No.711 of 2012, passed by learned Judicial Magistrate, 1st Class, Rosera, is hereby quashed.

(Sandeep Kumar, J)

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