

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37163 of 2015

Arising Out of PS. Case No.-691 Year-2010 Thana- ROHTAS COMPLAINT CASE District-
Rohtas

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1. Satya Narain Prasad and Ors son of Raghunath Sonar.
 2. Uday Kumar, Son of Satya Narain Prasad
 3. Ramuna Devi, Wife of Satya Narain Prasad.
 4. Shankar Prasad @ Shankar Sonar, son of Naresh Sonar.
 5. Kundan Prasad @ Kundan Kumar, son of RAM Pravesh Sonar, All are residents of ward No.5, Nasriganj, P.S.- Nasriganj, District- Rohtas.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Sanjay Kumar, Son of Krishna Nand Prasad, resident of Ward No.4, Nasriganj, P.S.- Nasriganj, District- Rohtas.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajani Kant Singh, Advocate
For the Opposite Party/s : Mr. Binod Kumar, App

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 17-03-2023

Heard the parties.

This application has been filed for quashing the order dated 19.06.2015 passed by learned Additional Sessions Judge, IX Rohtas at Sasaram in Criminal Revision No. 168 of 2011 by which the learned dismissed the revision application filed on behalf of the petitioners and set aside the order dated 24.03.2011 passed by J.M. 1st Class, Bikramganj, Rohtas at Sasaram in Complaint Case No. 691 of 2010 with the observation that besides the Sections 323 and 420 of the Indian Penal Code, offence under Sections 379 and 506 of the Indian Penal Code has also made out and directed to learned Judicial Magistrate to pass a fresh order.

As per the complaint petition, the complainant has



a grocery shop in his house. It is alleged that the father of the complainant has two brothers who were separated 15 years ago and an agreement for partition was executed between the father of the complainant and his uncle. The father of the complainant was allotted 2.5 kathas of land in his share and his uncle was allotted R.S. Plot No. 679 situated at Mauza-Nasriganj, P.S. Nasriganj, Rohtas, which he has alleged that the uncle of the complainant has sold out one katha of land of the share of the father of the complainant but he did not pay the amount of the same, when the informant told him to give the said amount, the petitioners assaulted him and forcibly entered into the shop of the petitioner and looted Rs. 10,000/- from the cash counter of the shop.

It has been submitted by the learned counsel for the petitioners that because of a Title Suit No. 342 of 2010 the present complaint has been filed. The father of the complainant filed the said Title Suit and the present complainant is the son of the plaintiff. Moreover, the allegation made in the complain petition unbelievable that the cash of Rs. 10,000/- is available in the village shop. He further submits that this is a malicious prosecution only with a view to harass the petitioners.

Learned counsel for the opposite party no.2 has



submitted that the occurrence has taken place and the Revisional Court has also found substance in the allegations levelled against the petitioners.

From reading of the entire materials including the complaint it seems that the present prosecution is nothing but a malicious prosecution launched with an intention to wreak vengeance upon the accused persons.

Considering the aforesaid facts and also considering the law laid down by the Supreme Court in the case of *Bhajan Lal vs. State of Haryana Air 1992 SC 604*, this application is allowed.

Accordingly, the Complaint Case No. 691 of 2010 registered for the offence under Sections 323, 341, 147, 148, 149, 465, 472, 471, 382, 427, 420, and 406 of the Indian Penal Code including the order dated 19.06.2015 passed by learned Additional Sessions Judge, IX Rohtas at Sasaram in Criminal Revision No. 168 of 2011, is hereby quashed in the interest of justice.

(Sandeep Kumar, J)

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