

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5626 of 2022

Arising Out of PS. Case No.-285 Year-2020 Thana- BIRAUL District- Darbhanga

1. ABDUS SAYEED @ ABDUL SAYEED @ ABDUL SAID Son of Late Md. Shareed Resident of Villasse- Akbarpur Benk, P.S.- Biraul, District- Darbhanga.
2. Abdul Wahab @ Mintu Son of Abdus Sayeed @ Abdul Sayeed @ Abdul Said Resident of Village- Akbarpur Benk, P.S.- Biraul, District- Daubhanga.
3. Abdul Subhan @ Dablu Son of Abdus Sayeed @ Abdul Sayeed @ Abdul Said Resident of Village- Akbarpur Benk, P.S.- Biraul, District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioners	:	Mr. Iqbal Asif Niazi, Advocate
For the State	:	Mr. Lalan Kumar, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 21-02-2024 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. This application has been filed under Section 482 of the Code of Criminal Procedure on behalf of petitioners for quashing the order dated 31.08.2021 passed by the learned A.C.J.M.-II, Biraul at Darbhanga in Biraul P.S. Case No. 285 of 2020 (G.R. Case No. 693 of 2020). By the said order, the learned A.C.J.M. took cognizance of offences punishable under Sections 341, 323, 324, 325, 304, 504 and 34 of the Indian Penal Code, against the petitioners and three other accused



persons.

3. The prosecution story in brief is that there was persisting land dispute between the parties. Thereafter, on the alleged date and time of occurrence, to pressurize the informant to compromise earlier criminal cases lodged against the accused persons, all the accused persons, including these petitioners, variously armed, assaulted the informant and his family members. Co-accused Parwej Alam @ Mahtab is alleged to have gave sword blow on one Najmul Hoda. Petitioner No. 1 and co-accused Parwej Alam are alleged to have assaulted the informant by means of *lathi*. Petitioner Nos. 2 and 3 are alleged to have assaulted one Shams Tabhrej with cricket bat. Petitioner No. 1 and co-accused Parwej Alam are also alleged to have assaulted one Rahmati Begum, due to which she succumbed to the injuries.

4. Learned counsel for the petitioners submits that due to previous enmity and land dispute between the informant and co-accused Badrul Hoda, who happens to be own *bahnoi* (brother-in-law) of Petitioner No. 1, the petitioners have falsely been implicated in this case. As a matter of fact, admittedly, both parties are full brothers and there was some dispute with respect to path way for which they were on litigating terms and



several criminal cases are pending in between the parties. It is further submitted that the present case is counter-blast to Biraul P.S. Case No. 302 of 2020 which was lodged by co-accused Raziya Khatoon, who happens to be sister of Petitioner No. 1, against the prosecution party.

5. On the other hand, learned counsel for the State has vehemently opposed the statements made on behalf of the petitioner and supported the order of cognizance. It is submitted that there are sufficient material on record for taking cognizance against the accused persons, including these petitioners. It is the specific case of the informant that these petitioners assaulted Rahmati Begum, due to which she died and as such, no interference is required by this Hon'ble Court at this stage.

6. From bare perusal of the impugned order, it is apparent that the order of cognizance dated 31.08.2021 has been passed after perusing the entire materials available on record and as such, I do not find any illegality in the impugned order. I do find substance in the submission made on behalf of learned A.P.P. for the State that the grounds which have been taken by the petitioners to assail the order of cognizance are in the realm of probable defence, which can only be looked at the stage of trial after adducing evidences on behalf of the parties.



7. Accordingly, this quashing application is dismissed.

(Prabhat Kumar Singh, J)

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