

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40712 of 2016

Arising Out of PS. Case No.-5 Year-2016 Thana- JAMHOR District- Aurangabad

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1. Kaushal Sharma, Son of Ramjee Sharma
 2. Shailesh Sharma Son of Ramjee Sharma
 3. Bhola Singh Son of Late Kameshwar Singh All Resident of Village-
Balikarna Police Station- Jamhore, District- Aurangabad, Bihar.

... .. Petitioner/s

Versus

1. State of Bihar
2. Ravindra Singh S/o late Jagannath Singh Resident of Village- Balikarna
Police Station Jamhore District Aurangabad, Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amarendra Kumar Singh, Advocate
For the Opposite Party/s : Mr. Manoj Kumar – 1, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

9 25-11-2024 Heard Mr. Amarendra Kumar Singh, learned counsel
for the Petitioners and Mr. Manoj Kumar - 1, learned APP for
the State.

2. The instant petition has been filed under Section 482 of the Code of Criminal Procedure (in short ‘Cr.P.C.’) with a prayer to quash the order dated 14.06.2016 passed by the learned Chief Judicial Magistrate, Aurangabad in Jamhore P.S. Case No. 05 of 2016 by which the cognizance of the offences under Sections 341, 323, 379, 385, 504 and 506 read with Section 34 of the Indian Penal Code (in short ‘IPC’) has been taken against the petitioners.



3. The main submissions advanced by learned counsel for the petitioners are that several persons who were examined during the course of investigation did not support the prosecution case except the informant and his brother, Yogendra Singh and despite there being no material against the petitioners, chargesheet has been submitted. The police failed to recover any incriminating article either from the place of occurrence or the possession of the petitioners. As per the allegations, the alleged occurrence took place on a busy road in broad daylight but as per prosecution, nobody witnessed it except the informant and his brother and it was alleged that the petitioners were armed with pistol and iron rod but assaulted with fists and slaps which is highly absurd. The allegation of the informant as to firing by a pistol at the petitioners could not be made out as neither the police lodged a case under the Arms Act nor could find any material against them. The present case is only out of political rivalry and a land dispute existing in between both the parties and on the alleged day, at the time of occurrence, a dispute broke out due to passing a tractor through the disputed land resulting in an incident of abusing between both the parties.

4. Mr. Manoj Kumar- 1, learned APP for the State has opposed the prayer of the petitioners.



5. Heard both the sides and perused the order impugned by which the learned trial court has taken the cognizance of the offence punishable under Sections 341, 323, 379, 385, 504 and 506 read with Section 34 of IPC against the petitioners. As per the allegation, the petitioners are veteran criminals of the area of O.P. No.2 and they made an extortion demand of Rs. 1,00,000/- from the informant and his younger brother and also have political rivalry with the informant and a few days prior to the alleged occurrence, the informant's brother was assaulted by the petitioners in the village and thereafter, on the alleged day i.e. on 21.01.2016, when O.P. No.2 and his brother were going to Obra on a motorcycle they were intercepted by the petitioners and firing was also done at the informant by the accused, Kaushal Sharma and thereafter, the petitioners surrounded the O.P. No.2 and his brother and assaulted them and during that course Rs. 3,000/- was snatched by the petitioner nos.1 and 3. In respect of these allegations, the restatement of the informant and statements of some material witnesses mentioned in paragraph no. 7, 12 and 13 of the case diary are relevant which prima-facie attract the alleged offences of which cognizance has been taken. The main ground taken by the petitioners to assail the order of cognizance is that during the



investigation, some independent witnesses did not support the allegations made in the FIR and according to them at the relevant time there was simply a land dispute in between both the parties and on the alleged day at the time of occurrence, a simple dispute of passing a tractor through the disputed land arose which led an incident of abusing in between both the parties. This Court does not find substance in the above stated ground as the names of these independent witnesses do not find place in the FIR and during investigation, the informant and his brother, who are said to be the eyewitnesses, did not reveal the names of the said persons as having witnessed the occurrence. Accordingly, this Court finds no illegality and impropriety in the order impugned taking cognizance of the alleged offences, hence, there is no force in this petition, so, it stands dismissed.

(Shailendra Singh, J)

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