

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39757 of 2022

Arising Out of PS. Case No.-285 Year-2021 Thana- PATNA COMPLAINT CASE District-
Patna

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SANJAY SAO S/o Jageshwar Sao R/o Village- Gyashpur Mahaji, P.S.-
Sлимпur, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Dharmendra Sao S/o Jageshwar Sao R/o village- Gyashpur Mahaji, P.S.-
Salimpur, District- Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shivjee Singh

For the Opposite Party/s : Mr. Anuj Kumar Shrivastava

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 06-02-2024 1. Heard learned counsel for the petitioner and

learned APP for the State along with learned counsel for the

O.P. No. 2, Mr. Shailendra Kumar Jha.

2. The learned counsel for the petitioner submits
that the present quashing application has been filed seeking
quashing of the order dated 10.05.2022 passed by Pankaj
Kumar Tiwari, learned In-charge ACJM-I, Barh, Patna in
Complaint Case No. 285-C of 2021 whereby cognizance of
offence under Section 323, 379 and 504 of the IPC has been
taken.

3. The leaned counsel for the petitioner next
submits that the O.P No. 2 herein had instituted the aforesaid



complaint alleging therein that on 06.06.2021, he along with his family members were sitting in their house when at about 09:00 all accused persons came to his house with lathi, danda, iron rod, pistol and started abusing him and his wife and on protest, Brijnandan Sao gave orders to assault, on which accused persons started assaulting with lathi, danda and iron rod. It is next alleged that Indrajeet Sao assaulted the complainant with an iron rod on his head repeatedly causing fracture of his head and blood started oozing, on which his wife came to rescue him when the accused persons also assaulted her and Radhika Devi snatched golden earring of Babli Devi and accused Sanjay Sao (petitioner) tried to kill his child by pressing his neck.

4. The learned counsel for the petitioner submits that petitioner and the O.P. No. 2 are own brothers and there is dispute relating to ancestral property with respect to land as would manifest from *Annexure-2*, Page-13 of the quashing application where the complainant in his evidence has stated that the accused persons are *Gotia* and prior to this occurrence, no other occurrence had taken place and the accused persons have not instituted any case against him and there is a dispute relating to land. The learned counsel further



submits that though in the complaint, it has been alleged that the accused persons assaulted, but then there is no injury report on record, it is further submitted that as such the allegation of assault by iron rod on head causing injury gets falsified. It is further submitted that as far as this petitioner, who is own brother of O.P. No. 2 is concerned, is alleged to have tried to kill the child of the complainant by pressing his neck, but then the said allegation is ornamental as petitioner is own uncle of the son of the O.P. No. 2. It is further submitted that the allegations are exaggerated and does not inspire confidence. It is further submitted that the allegation relating to theft is ornamental.

5. The learned APP for the State along with learned counsel for the O.P. No. 2 opposes the quashing application but are not in a position to rebut the submission of the learned counsel for the petitioner that petitioner and O.P. No. 2 are brothers and there is land dispute in between them and there is no injury report on record and that allegation of theft is ornamental.

6. Considering the submission made by the learned counsel for the petitioner, the order dated 10.05.2022 passed by Pankaj Kumar Tiwari, learned In-charge ACJM-I, Barh,



Patna in Complaint Case No. 285-C of 2021 whereby cognizance of offence under Section 323, 379 and 504 of the IPC has been taken, is hereby quashed.

7. Accordingly, the present quashing application stands allowed.

(Satyavrat Verma, J)

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