

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47502 of 2023

Arising Out of PS. Case No.-340 Year-2021 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. AARJU KHAN son of Isteyak Ahmad Khan Village- Chamanbag Ps- Pakribarawan Dist- Nawada
 2. Nazma Khatoon wife of Arjun Khan Village- Chamanbag Ps- Pakribarawan Dist- Nawada
 3. Isteyak Ahmad Khan son of Rahat Hussain Khan Village- Chamanbag Ps- Pakribarawan Dist- Nawada
 4. Farhana Khatoon wife of Isteyak Ahmad Khan Village- Chamanbag Ps- Pakribarawan Dist- Nawada
 5. Jahangir Khan son of Gani Khan Village- Chamanbag Ps- Pakribarawan Dist- Nawada
 6. Munni Khatoon wife of Jahangir Khan Village- Chamanbag Ps- Pakribarawan Dist- Nawada
 7. Asmat Khatoon wife of Jiuddin Khan Village- Saraw Ps- Nasriganj Dist- Rohtas
 8. Nasima Khatoon wife of Laddan Khan Village- Saraw Ps- Nasriganj Dist- Rohtas
 9. Ladan Khan @ Ladle Khan son of Late Nehaluddin Khan Village- Saraw Ps- Nasriganj Dist- Rohtas
 10. Gulab Khan son of Late Nehaluddin Khan Village- Saraw Ps- Nasriganj Dist- Rohtas
 11. Munni Khatoon wife of Gulab Khan Village- Saraw Ps- Nasriganj Dist- Rohtas
 12. Wasim Akhtar son of Kasim Akhtar Village- Saraiya Ps- Amjhor Dist- rohtas
 13. Khusnunda Khatun wife of Dular Hassan Khan Village- Rajaganj Bhadwa Kanta Ps- Barachatti Dist- Gaya
 14. Dulaar Hussan Khan son of Sachchu Khan Village- Rajaganj Bhadwa Kanta Ps- Barachatti Dist- Gaya
 15. Amna Khatoon @ Pola wife of Sachchu Khan Village- Rajaganj Bhadwa Kanta Ps- Barachatti Dist- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. Hazi Shamsul Hooda Khan @ Chand Kha son of late Abdul Hanif Khan R/o- Imadpur Ps- Rafiganj Dist- Aurangabad

... .. Opposite Party/s

Appearance :

For the Petitioners : Mr.Binay Kumar, Advocate



For the State : Mr.Raj Ballabh Singh, APP
For the O.P.2 : None

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

8. 08-04-2024 Learned counsel for the petitioners and learned A.P.P. for the State are present. Today again, nobody appears on behalf of opposite party no. 2.

2. The present petition, under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “Cr.P.C.”), has been filed for quashing the order of cognizance dated 15.03.2022 passed in Complaint Case No. 340 of 2021 by the learned Judicial Magistrate 1st Class, Gaya (hereinafter referred to as ‘Magistrate’) under Sections 148, 341, 323 of the Indian Penal Code. By the said order, the learned Magistrate, after examining the complainant and other three enquiry witnesses, has found the case true against these petitioners and most arbitrarily and erroneously took cognizance under Sections 148, 341, 323 of the Indian Penal Code and issued summons against them.

3. The case of the complainant, in brief, is that while he was on way to Gaya for selling the ornaments of his wife, in the meanwhile, these petitioners assaulted him with fists and slaps and asked him to withdrawn the Title Suit No. 53/2013 from the court of Sub-Judge, Bikramganj, Sasaram and



thereafter, snatched the ornaments from his possession worth Rs. three lacs.

4. Learned counsel for petitioners submits that petitioners have been falsely implicated in this case. Petitioners are close relatives of wife of complainant and wife of the complainant has filed aforesaid title suit against petitioners and only with a view to put pressure in the said case, this false and concocted complaint has been lodged against petitioners. He further submits that the complainant has filed at least six complaint cases, in which, petitioners / some of their relatives have been made accused and prosecution story in all the complaint cases are similar in nature (Annexure – 2 series to the petition). The whole purpose of filing these cases are only to grab the property of the petitioners. The learned Magistrate, without applying his judicial mind, most arbitrarily and erroneously passed the order impugned, which is required to be interfered with by this Hon'ble Court.

5. Learned A.P.P. for the State vehemently opposes the submission made on behalf of petitioners and submits that there are specific allegation against these petitioners that they assaulted the complainant by fists & slaps and threatened to withdraw the aforesaid title suit and also snatched ornaments. At



this stage, it cannot be said that no case is made out against these petitioners and as such, no interference is required in the order of the Court below and this petition is fit to be rejected.

6. Having heard the submissions, as advance by learned counsel for the parties and perused the materials available on record. This Court is *prima facie* satisfied with the submission made by learned counsel for the petitioners. From bare perusal of the complaint petition, it appears that this case has been lodged only with a view to put pressure on the petitioners to settle the civil dispute, which is pending between the parties. Therefore, continuation of the proceeding would be an abuse of the process of the Court.

7. Hence, this application is allowed. The order of cognizance dated 15.03.2022 passed in Complaint Case No. 340 of 2021 by the learned Judicial Magistrate 1st Class, Gaya, so far as these petitioners are concerned, is quashed.

(Prabhat Kumar Singh, J)

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