

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1700 of 2020

Arising Out of PS. Case No.-377 Year-2018 Thana- MALSALAMI District- Patna

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1. UMA SHANKER SINGH S/o Late Tej Narayan Yadav
 2. Rewati Kant Singh @ Rewati Yadav @ Tudu Yadav S/o Uma Shanker Singh
 3. Sumeet Kumar @ Santosh Yadav @ Santo Yadav S/o Uma Shanker Singh
All R/o – Mohalla - Nagla Main Road, Near Madho Mills, P.S. -
Malsalami, Post Office - Patna City, Distt. - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar, Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 06-02-2024 1. Heard learned counsel for the petitioners and
learned A.P.P. for the State.

2. Learned counsel for the petitioners submits that a purely civil dispute has been given a criminal colour. It is further submitted that the opposite party no. 2 is own brother of petitioner no. 1 and the opposite party no. 2 falsely alleges in the FIR that a partition in the family had taken place in the year 1989 and the property in dispute came in his share over which he had constructed a shop but his brother i.e. petitioner no. 1 blocked the passage and thereafter with the help of petitioners no. 2 and 3 went to the place of occurrence, broke the wall of the shop and committed theft of Potatoes and Rs.5,000/-. Learned counsel also submits that there was no partition in the



family in the year 1989. It is further submitted that the father of the petitioner no. 1 and the opposite party no. 2 by way of an affidavit had transferred the entire property in the name of the petitioner no. 1 as such the property in question which the opposite party no. 2 alleges that it belongs to him is bereft of any merit as the entire property belongs to the petitioner no. 1 but the opposite party no. 2 in order to grab the property had instituted the present false case.

3. Mr. Chandra Bhushan Prasad, learned A.P.P. for the State vehemently rebuts the submissions of the learned counsel for the petitioners and submits that there is no averments made in the quashing application with respect to 1989 partition i.e. there is nothing on record to suggest that there was no partition in the family but then fairly submits that if what has been submitted by the learned counsel for the petitioners is true in that event the petitioners can raise all these issues at the time of framing of charge as the Court at the stage of framing of charge has wider jurisdiction to appreciate the facts of the case in its correct perspective.

4. Learned counsel for the petitioners, at this stage, seeks permission to withdraw this application with liberty to raise all issues at the time of framing of charge.



5. Permission is accorded.

6. Accordingly, this application is dismissed as
withdrawn.

(Satyavrat Verma, J)

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