

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23695 of 2018

Arising Out of PS. Case No.-177 Year-2017 Thana- DHAKA District- East Champaran

1. Uma Shankar Singh son of Late Kapildeo Singh.
2. Mamta Singh, wife of Uma Shankar Singh.
3. Himanshu Raj, son of Uma Shankar Singh.
4. Himajee Raj @ Sudhansu Raj, son of Uma Shankar Singh. All resident of Village- Dalpat Bisunpur, Police Station- Dhaka Pachpakari O.P., District- East Champaran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar, Adv.

For the Opposite Party/s : Mr.Sri Manoj Kumar – 1, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

7 25-02-2025 Heard Mr. Anil Kumar, learned counsel for the petitioners and Mr. Manoj Kumar No.1, learned APP for the State.

2. The instant petition has been filed under section 482 of the Code of Criminal Procedure (in short the Code) with a prayer to quash the order dated 16.02.2018 passed by the learned Sub-divisional Judicial Magistrate, Sikrahana at Dhaka in Trial No. 2648 of 2018, arising out of Dhaka P.S. Case No. 177 of 2017, whereby and whereunder the learned Magistrate has taken cognizance of the offences punishable under section(s) 323, 427 and 504 read with section 34 of the Indian



Penal Code (in short the IPC) against the petitioners and other accused persons.

3. Learned counsel for the petitioners submits that in between the petitioners and the informant there is a long standing civil dispute over the place of occurrence which relates to the land of Khata No. 38, Plot No. 650 and the informant claimed the said land as his purchased land but the said claim is completely false as the petitioner No.1 and others filed a Title Suit No. 70 of 2003/ 186 of 2006 with a prayer to declare their title and possession over the suit lands and the land concerned to the place of occurrence was a part of the suit land in that case and in this regard, description of the suit land given in the decree may be perused and the said Title Suit was decreed in favour of the petitioner No.1 and others and their title and possession was declared by the Civil Court and that judgement and decree have attained finality as they are not under challenge. It is further submitted that prior to registration of the FIR of the present matter, the petitioner No. 1 had lodged Dhaka P.S. Case No. 66 of 2017 with the allegation that the informant and others came at the house of the petitioner No.1, situated over the place of occurrence of the present matter and committed the offences detailed in that FIR and the informant



and other accused persons were chargesheeted and after three months from the registration of Dhaka P.S. Case No. 66 of 2017, the FIR of the present matter was lodged by the informant only with a malafide intention to create pressure upon the petitioners. It is further submitted that after the investigation, the police did not find any substance in the allegations levelled against the petitioners and initially, they were not sent up by the police but while taking cognizance against the petitioners, the learned Magistrate did not apply his judicial mind and mainly placed reliance upon the statements of the witnesses mentioned in the paragraphs no. 6 and 7 of the case diary, which are completely not relevant to the allegations levelled against the petitioners and also do not show even prima facie involvement of the petitioners in the alleged offences.

4. Learned APP appearing for the State has opposed this petition and submitted that the order impugned has been rightly passed and there is sufficient material in the case diary to attract the alleged offences against the petitioners.

5. Heard both the sides and perused the order impugned, FIR and other relevant materials available in the case diary.

6. This court finds substance in the aforesaid



submissions advanced by the petitioners' counsel as the alleged occurrence is said to have taken place on the land belonging to Khata No. 38, plot No. 650 and one of the allegations levelled by the informant was that the accused persons including the petitioners came at the place of occurrence and tried to pluck mango and jack fruit and when resistance was made by the informant and his family members, the petitioners and others assaulted the prosecution party but the said place of occurrence was a part of the suit lands in Title Suit No. 70 of 2003/ 186 of 2006 filed by the petitioner No.1 and others with a prayer to declare their title and possession over the suit lands including the land concerned to the place of occurrence and that suit was decreed and the same has attained finality as per above submissions, and the FIR of present matter was registered several years after the decision in the Title Suit No. 70 of 2003/ 186 of 2006. Here, it is important to mention that three months prior to the registration of the FIR of present matter the petitioner No.1 and others had lodged Dhaka P.S. Case No. 66 of 2017 against the prosecution party in which the police submitted chargesheet against the prosecution party which is sufficient to show that the informant of this matter lodged his case with malafide intention and further, the statements made in



the paragraphs No. 6 and 7 of the case diary upon which the learned Magistrate has placed reliance while summoning the petitioners for the alleged offences, mainly disclose about a land dispute being running in between the informant and the petitioner No.1 on account of which on 01.06.2017, some quarrel and scuffle took place in between them and the statements made in these paragraphs are not, even prima facie, sufficient to attract the alleged offences against the petitioners. Accordingly, this court is of the view that while differing with the conclusion of the police, the learned Magistrate did not apply his judicial mind in right perspective and passed the impugned order in mechanical manner to the extent of the petitioners and the same is not sustainable in the eye of law and if the petitioners are subjected to face the trial for the alleged offences in the light of the materials available against them in the case diary, it would be complete harassment to them, so, the order impugned summoning the petitioners for the alleged offences is hereby set aside only to the extent of the petitioners and the instant petition stands allowed.

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(Shailendra Singh, J)

