

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24418 of 2016

Arising Out of PS. Case No.-192 Year-2016 Thana- PATNA COMPLAINT CASE District-
Patna

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1. VIJAYENDRA KUMAR S/o late Ram Tapeswar Singh R/O VILLAGE-ANANDPUR, PS. BIHATA, DISTT. PATNA.
 2. BRAJESH KUMAR S/O SHAYAM BIHARI SHARMA R/O VILLAGE-ANANDPUR, PS. BIHATA, DISTT. PATNA.

... .. Petitioner/s

Versus

1. The State of Bihar
- 2(a) SURJIKANTI DEVI W/O LATE RAMESH KUMAR R/O VILLAGE-ANANDPUR, PS.- BIHTA, DISTT. PATNA.
- 2(b) SRI SANJAY SHARMA S/O LATE RAMESH SINGH R/O VILLAGE-ANANDPUR, PS.- BIHTA, DISTT. PATNA.
- 2(c) RAKESH KUMAR SHARMA S/O LATE RAMESH SINGH R/O VILLAGE- ANANDPUR, PS.- BIHTA, DISTT. PATNA.
- 2(d) SRI DEEPAK KUMAR SHARMA S/O LATE RAMESH SINGH R/O VILLAGE- ANANDPUR, PS.- BIHTA, DISTT. PATNA.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar, Adv.
For the Opposite Party/s : Mr. S.M.Rahman, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

15 04-02-2025 Heard Mr. Mukesh Kumar, learned counsel for the
petitioners and Mr. S.M. Rahman, 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 06.05.2016 by which the learned Judicial Magistrate, 1st class, Danapur, Patna has taken cognizance of the offences punishable under sections(s) 323, 504 and 379 of the IPC against the petitioners in Complaint



Case No. 192(C) of 2016.

3. The main ground taken by the petitioners' counsel to assail the order impugned is a lease dispute running between the petitioners and the opposite parties as well as other civil litigation on account of the said lease dispute. Learned counsel submits that it is an admitted fact that the original opposite party, who is now no more, leased the land in question in favour of the petitioners and there was no dispute in between them for several years after execution of the lease deed and the petitioners had been paying the rent as per terms and conditions of the lease regularly but in the year 2016, when the daughter of the original opposite party got dealership of a petrol pump then the complainant (original opposite party No.2) raised issues regarding the area of the leased land as well as period of lease which were not proper in accordance with the terms of lease deed and the same was opposed by the petitioners and thereafter a dispute arose in between them and then the O.P. No.2 filed Title Suit No. 41 of 2016 on 08.03.2016 against the petitioners which is still running and only thereafter the complaint, in which the order impugned has been passed, was filed against the petitioners with an ulterior motive with false and unbelievable allegations. It is further submitted that as per



the allegations, the petitioners and other accused persons entered into the house of the complainant and assaulted him by inflicting repeated blows of iron rod but, admittedly, neither medical treatment was taken from a Government hospital nor FIR was lodged by the complainant, rather he chose to file criminal complaint directly, which shows malafide intention on the part of the complainant to create undue pressure upon the petitioners to settle the lease dispute.

4. Learned APP appearing for the State has opposed this petition and submitted that there is sufficient material to proceed with the alleged offences against the petitioners.

5. Heard both the sides and perused the relevant materials.

6. This court finds substance in the aforesaid grounds taken by the petitioners as in between the petitioners and the complainant, Ramesh Singh, who is no more, a dispute with regard to terms of the lease as well area of the leased land was running during the relevant time and regarding that dispute a Title Suit (No. 41/ 2016) was also running in between them and only thereafter the complaint was filed by the original opposite party and as per the allegations, the complainant was assaulted by the accused persons by giving repeated blows by means of



iron rod but no medial evidence was given in support of any injury to the complainant on account of those iron rod blows. The petitioners have taken the plea that the dispute in between the petitioners and the complainant started in the year 2016, when the daughter of the complainant got dealership of a petrol pump for which the land given to the petitioners was required by the complainant and in this regard, specific statement has been made by the petitioners in paragraph 8 of the petition. Initially the O.P. No.2 appeared and later on he died and thereafter notices were sent to the legal heirs of the original O.P. No.2 and on behalf O. P. No. 2(c), Rakesh Kumar Sharma Vakalatnama has been filed but today no one is present on his behalf. It is relevant to mention that the complainant has not given satisfactory explanation regarding not lodging the FIR for the alleged assault and he directly filed the criminal complaint before the concerned Judicial Magistrate and these facts have persuaded this court to form the opinion that the complainant filed his complaint with malafide intention to settle the civil dispute running in between him and the petitioners with regard to a lease issue and he came before the trial court to settle the said dispute by creating pressure upon the petitioners and putting the petitioners on trial for the alleged offences will be



complete harassment to them.

7. Considering the aforesaid facts, this court finds that there is no sufficient material, even prima facie, to attract the offences punishable under sections(s) 323, 504 and 379 of the IPC hence the order impugned is hereby set aside and the instant petition stands allowed.

(Shailendra Singh, J)

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