

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5669 of 2019

Arising Out of PS. Case No.-76 Year-2019 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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1. YOGENDRA DAS @ YOGENDRA PRASAD @ JOGINDRA DAS S/o Babulal Das Resident of Village- Areraj Ward No. 02, P.S.- Govindganj, District- East Champaran.
 2. Rajendra Das S/o Babulal Das Resident of Village- Areraj Ward No. 02, P.S.- Govindganj, District- East Champaran.
 3. Ashok Das S/o Yogendra Das @ Yogendra Prasad @ Jogindra Das. Resident of Village- Areraj Ward No. 02, P.S.- Govindganj, District- East Champaran.
 4. Bhola Das S/o Prabhu Das Resident of Village- Areraj Ward No. 02, P.S.- Govindganj, District- East Champaran.
 5. Vivek Das @ Amit Kumar Son of Rajendra Das Resident of Village- Areraj Ward No. 02, P.S.- Govindganj, District- East Champaran.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR Bihar
2. Ram Pukari Devi Wife of Girdhari Paswan Resident of Village- Areraj Ward No. 02, P.S.- Govindganj, District- East Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Karandeep Kumar, Adv.
For the Respondent/s	:	Mr.Sadanand Paswan, Spl. P.P.
For the O.P. No. 02	:	Mr. Dhurendra Kumar, Adv. Mr. Sumit Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 16-01-2025 Heard learned counsel for the appellants, learned counsel for the O.P. No. 02 and learned Spl. P.P. for the SC/ST Act.

2. This application has been filed for quashing the order dated 05.11.2019 passed by the learned Additional Sessions Judge-cum-Special Judge, SC/ST Act, East Champaran at Motihari in connection with Complaint Case No. 76 of 2019.



3. As per the complaint, the father-in-law of the complainant namely Basdeo Paswan got one Katha of land appertaining to Khata No. 169 and Khesra No. 69 from the Mahanth of Areraj Temple and since then he along with his family is living on the same but the appellants and Ors. always ask the complainant to sell the land but he did not do so. It is alleged that on the date of occurrence, the appellants armed with *lathi-danda* started abusing the complainant by taking his caste name and also assaulted him.

4. On the basis of the aforesaid complaint, Complaint Case No. 76 of 2019 was registered and the learned Court below has taken cognizance against the appellants.

5. It has been submitted by the learned counsel for the appellants that the appellants are innocent and have falsely been implicated in this case as there is an admitted land dispute between the appellants and the complainant.

6. It has further been submitted by the learned counsel for the appellants that the appellant no. 1 has right, title and interest over the land in question since the registration of the sale deed and he is in peaceful possession of the same and it is the complainant who has encroached the front portion of the land in question. He further submits that an application for



measurement of the land in question has also been filed against the complainant by the appellant/s.

7. It has also been submitted by the learned counsel for the appellants that the appellant no. 01 has filed a suit bearing T.S. No. 19 of 2019 with respect to the land in question against the husband of the complainant and Ors.

8. Learned counsel for the O.P. No. 02 and learned Spl. P.P. for the SC/ST Act have opposed the prayer of the appellants for quashing and have submitted that offence under the Indian Penal Code and SC/ST Act are made out against the appellants and therefore the same may not be interfered with at the stage of cognizance.

9. I have gone through the records of the case and have considered the submission of the parties.

10. From the perusal of the complaint, it appears that it is basically a civil dispute which has been given colour of criminal case. Moreover, it appears that complaint case has been filed with a malafide intention and the allegation have been levelled only to make the offence non-bailable.

11. Considering the aforesaid facts of the case, the submission of the parties and also considering the law laid by the Hon'ble Supreme Court in the case of *State of Haryana*



and ors. Vs. Bhajan Lal reported in 1992 Supp (1) SCC 335, I am of the view that this kind of malicious prosecution cannot be allowed to continue.

12. Accordingly, this application is allowed and the order dated 05.11.2019 passed by the learned Additional Sessions Judge-cum-Special Judge, SC/ST Act, East Champaran at Motihari in connection with Complaint Case No. 76 of 2019 and all the consequential proceedings arising out of the same are hereby quashed.

(Sandeep Kumar, J)

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