

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13598 of 2016

Arising Out of PS. Case No.-76 Year-2015 Thana- AURANGABAD COMPLAINT CASE
District- Aurangabad

-
1. Ram Janam Singh and Ors. Son of Late Bharat Singh
 2. Shatrughan Singh, son of Late Bishundhari Singh
 3. Rajesh Singh, son of Shri Shatrughan Singh
 4. Upendra Singh, son of Shri Gopal Singh
 5. Gautam Singh son of Shri Upendra Singh All resident of village- Kurmain, P.S. Goh, District- Aurangabad

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Shri Jai Ram Singh, Son of Late Bharat Singh, resident of village- Kurmain, P.S. Goh, District- Aurangabad

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bhubneshwar Prasad, Advocate
For the Opposite Party/s : Mr. Ashok Kr. Singh, App

CORAM: HONOURABLE MR. JUSTICE PRAVEEN KUMAR
ORAL ORDER

7 23-07-2026 Heard learned counsel for the petitioners and learned counsel for the State. Even after valid service of notice, there is no representation on behalf of the Opposite Party No. 2

2. The petitioners have challenged the order taking cognizance dated 08.09.2015, passed in Complaint Case No. 76 of 2015, whereby cognizance has been taken against the petitioners for the offences punishable under Section 380 of the Indian Penal Code.

3. As per the prosecution case, all the nine accused persons including the petitioners entered into the house of the



informant and lifted two suitcase and five boxes from his house and fled away by breaking the door. It has further been alleged that when the informant and his wife woke up, they saw the accused persons fleeing away from the place of occurrence. The informant has mentioned the list of articles which were stolen from his dwelling house which are in the form of gold and silver ornaments and other valuable documents relating to land.

4. Learned counsel for the petitioners has submitted that after the registration of FIR, the investigation proceeded and after thorough investigation, police submitted final form exonerating the petitioners from the case by giving a finding that the case is false and further recommended to take action against the informant under the provisions of 182 and 211 of the I.P.C. Learned counsel for the petitioners has submitted that by order dated 03.02.2015, the said final report was accepted and the protest petition which was filed came to be treated to be a complaint. The learned Magistrate examined the informant/complainant on solemn affirmation and also other inquiry witnesses and by the impugned order was pleased to take cognizance against the petitioners. Learned counsel for the petitioners has also submitted that there are pending civil and criminal litigations between the parties and has referred to



Annexure-8, wherein 2009 Daud Nagar, P.S. Case No. 22 of 2009 was registered by the petitioners side against the informant's side, while a title suit bearing the Partition Suit No. 149 of 2010 was also pending at the behest of the petitioners' side against the complainant' side. The prayer in the title suit was to pass a preliminary decree to partition of joint family properties between the parties. Learned counsel for the petitioner has submitted that in the background of such dispute, when the petitioners and the informant are closed agnates, the present case was found be lodged against the petitioners in order to wreak vengeance to spite personal score out of malice and grudge. It has further been submitted that a civil dispute has been given the color of criminal dispute by filing the present F.I.R against the petitioners, when the allegation with respect to theft in dwelling house was found to be untrue by the Investigating Agency and recommendation to proceed against the informant under the provisions of 182 and 211 was done. Learned counsel for the petitioners has placed reliance on a recent judgment of the **Hon'ble Supreme Court in the case of Mala Chaudhary & Anr. vs. State of Telangana** reported in **2025 INSC 870** and has thus submitted that the prosecution against the petitioners are vexatious in nature.



5. Learned counsel for the State opposed the prayer of the petitioners.

6. Heard the learned counsel for the parties and perused the records.

7. Considering the facts and circumstances, including the fact that the parties were agnates, while they were on litigating terms before civil and criminal courts, the allegations leveled against the petitioners with respect to theft in dwelling house have been found to be false and recommendation for initiation of proceeding against the complainant under Sections 182 and 211 I.P.C., while finding of the Investigating Agency was accepted. This Court finds that the present prosecution against the petitioners would be an abuse of process of court and accordingly order dated 08.09.2015 is hereby quashed.

8. This application is allowed.

(Praveen Kumar, J)

Aarti/-

U		T	
---	--	---	--

