

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42794 of 2018

Arising Out of PS. Case No.-99 Year-2016 Thana- ROHTAS COMPLAINT CASE District-
Rohtas

-
1. GOPAL PANDEY SON OF RAM BACHAN PANDEY R/O-KONI, P.O.-GANJ BHADASRA., PS.- DINARA, DIST. ROHTAS.
 2. KANHAIYA PANDEY S/O RAM BACHAN PANDEY R/O-KONI, P.O.-GANJ BHADASRA., PS.- DINARA, DIST. ROHTAS.
 3. CHHOTE LAL PANDEY @ LAKSHMAN PANDEY S/O KANHAIYA PANDEY R/O-KONI, P.O.-GANJ BHADASRA., PS.- DINARA, DIST. ROHTAS.
 4. BALIRAM TIWARY S/O LATE AYODHYA TIWARY R/O VILLAGE-BELHAN, PS.- DINARA, DIST.- ROHTAS.

... .. Petitioner/s

Versus

1. The State of Bihar BIHAR
2. LALI RAM @ LALU RAM @ NETA SON OF SUDARSHAN RAM
Resident of Village- Koni, P.O.- Ganj Bhadasra, P.S.- Dinara, District-
Rohtas.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashwani Kumar Tiwary, Advocate
For the State	:	Dr. Mrityunjaya Kumar Gautam, APP
For the O.P. No. 2	:	Mr. Nagendra Upadhyay, Advocate

CORAM: HONOURABLE MR. JUSTICE PRAVEEN KUMAR
ORAL ORDER

8 27-07-2026 Heard learned counsel for the petitioners, learned APP
for the State and learned counsel for the Opposite Party No. 2.

2. This application has been filed for quashing of the order dated 05.06.2017 passed by the learned J.M. 1st Class, Bikramganj (Rohtas) in connection with Complaint Case No. 99 of 2016, whereby cognizance of offences punishable under Sections 341, 323, 379 and 504 of the I.P.C. has been taken against the petitioners.

3. As per the solemn affirmation of the complainant,



when he had gone to the house of petitioner no. 2 for the payment of his dues as a laborer, where the complainant was refused, when petitioner no. 2 got furious and refused to pay the same and he abused the complainant and asked his men to break the legs and hands of the complainant and all the accused persons started chasing the complainant, upon which the complainant fled away to his house. It has further been alleged that thereafter all the accused persons entered the house with an intention to assault, the daughter-in-law of the complainant was subjected to misbehaviour by petitioner no. 2 (Kanhaiya Pandey) and a gold chain was snatched by him, whereas petitioner no. 4 took away the box containing Rs. 5,000/-. When the villagers came, then petitioner no. 1 came with his licensed gun and took the articles with him.

4. Learned counsel for the petitioners has submitted that the allegation against the petitioners is false and it has also been submitted that the present allegation is in the backdrop of previous complaint lodged by petitioner no. 1 against the complainant and other family members in which cognizance came to be taken against them for the offences punishable under Sections 341, 323, 379 and 504 of the Indian Penal Code. It has further been submitted that the complaint case is vague and has



been lodged with malicious intention to spite personal score and out of personal vendetta. Even, petitioner no. 2 who is an old man aged about 95 years, has also been made an accused, as well as family members, who have also been made accused in order to blackmail. It has further been submitted that the impugned order taking cognizance has been passed in a mechanical manner without applying judicial mind. Learned counsel for the petitioners has submitted that although the Sections in the complaint were under Sections 354 and 380 I.P.C. and under the Arms Act, but the learned Magistrate disbelieved such allegation and no cognizance under Section 427 or under Section 354 or under Section 380 and other ancillary Sections as proposed in the complaint was taken. It has further been submitted, referring to the judgment of the Hon'ble Supreme Court in the case of *State of Haryana versus Bhajan Lal* reported in **1992 Supp. (1) SCC 335**, that the case of the petitioners falls under various categories, and hence, the petitioners have been made accused only out of personal vengeance and to falsely implicate them.

5. Learned counsel for the State and learned counsel for the Opposite Party No. 2 have vehemently opposed the prayer of the petitioners. Learned counsel for the Opposite Party



No. 2 has submitted that the complainant, who is a poor man was assaulted and misbehaved with when his remuneration was not given to him upon asking for it, even the lady members were also subjected to misbehaviour. It has further been submitted that there are *prima facie* material against the petitioners and the order taking cognizance may not be interfered.

6. Heard the parties and perused the records.

7. Considering the facts and circumstances, the present complaint appears to have been filed after the complaint lodged by petitioner no. 2, on the vague and false allegations and the place of occurrence, within the four corners of house and the ingredients of the offence in which cognizance has been taken is not made out and the prosecution against the petitioners is an abuse of the process of the Court, the impugned order taking cognizance dated 05.06.2017 passed by the learned J.M. 1st Class, Bikramganj (Rohtas) in connection with Complaint Case No. 99 of 2016, is hereby quashed.

8. This application stands allowed.

(Praveen Kumar, J)

Sahil/-

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

