IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38627 of 2019

CNR No. BRHC010451372019

Arising Out of PS. Case No.-1365 Year-2017 Thana- SARAN COMPLAINT CASE District-Saran

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1. PURUSHOTTAM RAI Son of Late Gauri Shankar Rai Resident of Village - Chorawan, P.S.- Baniapur, District- Saran at Chapra
2. Sachitanand Rai @ Bunty Rai Son of Purushottam Rai Resident of Village - Chorawan, P.S.- Baniapur, District- Saran at Chapra

... ... Petitioner/s

Versus

1. The State of Bihar
2. Shyam Sunder Rai Son of Late Gorakhnath Rai Resident of Village - Chorawan, P.S.- Baniapur, District- Saran at Chapra

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Uday Bhan Singh
For the Opposite Party/s : Mr. Jitendra Kumar Singh
For the O.P. No. 02 : Mr. Sanjay Kumar Singh
Mr. Ujjawal Bhushan

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL ORDER

3 05-11-2026 Heard the parties.

2. This application has been filed on behalf of the petitioners for quashing the order dated 30.08.2017 passed by the learned Court of ACJM-11th at Chapra in Trial No. 2320 of 2017 / 2049 of 2018 arising out of Complaint Case No. 1365 of 2017.

3. The prosecution case, in brief, is that the complainant lives in Madhya Pradesh for earning his livelihood and frequently visits his paternal property in the village for

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agricultural and other purposes. It is alleged that, in his absence, the accused persons used to destroy his crops and commit theft of valuables items from his house by breaking its window. The son of the petitioner no. 01 is also alleged to have participated in the said offences. On one occasion, when the complainant visited the village to attend a marriage ceremony, he found that the accused persons had broken the lock of his Pooja Ghar and stolen articles kept therein, along with other valuables worth Rs. 14,000/-. When he confronted them, the accused persons allegedly abused and assaulted him. They also allegedly took away Rs. 27,000/- from his purse and damaged the tyres of his vehicle. The complainant was rescued by persons who witnessed the occurrence.

4. Learned counsel appearing on behalf of the petitioners submits that the allegations levelled in the complaint petition are false, frivolous and concocted. It is further contended that the dispute between the parties essentially relates to partition of ancestral property, in respect of which Partition Suit No. 612 of 2012 is already pending before the competent civil court, wherein petitioner No. 1 is arrayed as defendant No. 1 and the complainant is the plaintiff.

5. Learned counsel for the petitioner has further

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submitted that the allegations have been given a criminal colour to settle the existing land dispute and that no specific or cogent material is available to substantiate the alleged offences against the petitioners.

6. Learned counsel further submits that the learned Magistrate has mechanically taken cognizance without proper application of judicial mind and therefore, the criminal prosecution is an abuse of the process of law and the same may not be allowed to continue.

7. Learned counsel for the State and the learned counsel for the complainant have vehemently opposed the application of the petitioner.

8. I have considered the rival submissions advanced on behalf of the parties and perused the materials available on record.

9. It is evident from the complaint petition that the dispute between the parties primarily relates to ancestral property, in respect of which Partition Suit No. 612 of 2012 is already pending before the competent civil court. In the said suit, petitioner No. 1 is defendant No. 1, whereas the complainant is the plaintiff.

10. In the case of ***State of Haryana & Ors. v. Bhajan***

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Lal & Ors., reported in ***1992 Supp (1) SCC 335***, the Hon'ble Supreme Court has held that criminal proceedings may be quashed, inter alia, where they are manifestly attended with mala fide intention and have been instituted with an ulterior motive to wreak vengeance or settle personal scores.

11. Having considered the allegations in the complaint petition in the background of the pending civil dispute, this Court finds that the criminal prosecution appears to have arisen out of the existing property dispute between the parties. Though the pendency of a civil suit, by itself, is not a ground for quashing criminal proceedings, the overall circumstances of the present case indicate that the criminal process has been invoked to settle a private dispute. In the circumstances, continuation of the criminal proceedings would amount to an abuse of the process of the Court.

12. Accordingly, this application is allowed and the order dated 30.08.2017 passed by the learned ACJM-XI, Chapra in Trial No. 2320 of 2017 / 2049 of 2018, arising out of Complaint Case No. 1365 of 2017, along with the entire criminal proceedings arising therefrom, is hereby quashed.

(Sandeep Kumar, J)

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