

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 31403 of 2016

Arising Out of PS. Case No.-233 Year-2014 Thana- AURANGABAD COMPLAINT CASE
District- Aurangabad

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1. Md. Hamid Ansari, Son of Late Md. Farid Ansari, resident of village- Amjhar Sharif, P.S. Haspur, District Aurangabad
 2. Md. Islam Ansari, Son of Late Md. Farid Ansari, resident of village- Amjhar Sharif, P.S. Haspur, District Aurangabad
 3. Md. Majid Ansari, Son of Late Md. Farid Ansari, resident of village- Amjhar Sharif, P.S. Haspur, District Aurangabad
 4. Md. Aftab Ansari, Son of Md. Majid Ansari, resident of village- Amjhar Sharif, P.S. Haspur, District Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sayed Jamal Akhtar, son of Late Sd Suleman Kadari, Resident of Village- Amjhar Sharif, P.S. Haspura, District- Aurangabad

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bindeshwar Prasad Singh, Advocate
For the Opposite Party/s : Mr. Sri Shailendra Kumar -2, APP

CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

3 17-07-2026 Heard the learned counsel for the petitioners and learned A.P.P. for the State. However, none appears on behalf of the Opposite Party No 2 despite there being appearance through Vakalatnama.

2. The petitioners are aggrieved on account of cognizance being taken against them for offenses alleged under Sections 147, 379 and 504 of the Indian Penal Code.



3. The learned counsel for the petitioners submits that the petitioners have falsely been implicated in this case only to settle personal scores and a dispute which is purely civil in nature. It has been submitted that the petitioners were the rightful owners of the land in question and the *jamabandi* was created in their favour and rectified and subsequently, rent receipts were also being issued in their favour and therefore, they claiming their possession over the said land, entered the land in question upon which the complainant objected and therefore, the present false and concocted case of rioting, theft and insult with intent to provoke breach of peace has been lodged. It has been submitted that prima facie, it would appear that the complaint was filed without any affidavit and there is merely a statement that he had gone to the local police and given a report, however, the police had not accepted the same.

4. The learned counsel for the petitioners submits that in view of the settled law as pronounced in the case of *the State of Haryana and others vs. Bhajan Lal and others reported in 1992 Supp. (1)SCC 335*, it is a case which was purely civil in nature and the complaint was filed to wreak vengeance.

5. The learned counsel for the petitioners thus submits that in view of such legal position, as also the fact that the



present case has been lodged only to settle the civil dispute, giving the same a criminal colour, the order taking cognizance was bad in law and therefore, fit to be set aside.

6. Learned A.P.P. for the State has submitted that there is a specific allegation of forceful entering the lands of the complainant and taking away the agricultural produce and threatened them, therefore, there is no illegality in the order impugned.

7. Considering the aforesaid submissions made by the learned counsel for the petitioners as well as learned A.P.P. for the State, this Court finds that admittedly, the said complaint was filed stating forcefully taking away of agricultural produce and from perusal of the solemn affirmation of the complainant, it would be evident that the dispute primarily was of civil in nature and the documents in favour of the petitioners goes on to show that the complainant who had, in fact, been opposing the same by contesting before the revenue authority. From perusal of the solemn affirmation statement, it is also evident that the complainant has been claiming the land to be his land through a demand in favour of his wife and therefore, it is clear that there is a dispute of title with regard to the land in question and the present complaint has been filed to settle civil dispute, which is



impermissible in law.

8. In view of the above, the present application stands allowed and the order dated 05.02.2016 passed by the Judicial Magistrate 1st Class, Daudnagar in C/233/14, Tr. 88/16, is, hereby, quashed qua the petitioners.

(Sourendra Pandey, J)

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