

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67727 of 2019

Arising Out of PS. Case No.-1219 Year-2018 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

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1. Rahul Kumar Singh @ Rahul Singh S/O Vijay Singh R/O Village- Kotawa, P.S.- Barauli, District- Gopalganj.
 2. Babita Devi W/O Vijay Singh R/O Village- Kotawa, P.S.- Barauli, District- Gopalganj.
 3. Priyanka Kumari W/O Rahul Kumar Singh @ Rahul Singh R/O Village- Kotawa, P.S.- Barauli, District- Gopalganj.
 4. Godawari Devi W/O Raju Singh @ Rajeev Kumar Singh R/O Village- Kotawa, P.S.- Barauli, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Lalan Singh S/O Late Harinandan Singh R/O Katawa, P.S.- Barauli, Dist- Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Singh, Advocate
For the Opposite Party/s	:	Mr. Mohammed Arif, APP
For the O.P. No. 2	:	Mr. Uday Pratap Singh, Advocate
		Mr. Prasoon Shekhar, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 27-01-2026 Heard the learned counsel for the petitioners, learned
APP for the State and the learned counsel for the O.P. No. 2.

2. This application has been filed for quashing the order dated 23.07.2019 passed by the learned A.C.J.M-XIV, Gopalganj in Tr. No. 2240/2019 (arising out of Complaint case no.1219/2018) whereby and whereunder the learned Magistrate found prima facie case U/s 147, 323, 379/34 of I.P.C. for issuance of summons to face trail against the petitioners and



others.

3. The prosecution case, in brief, is that out of the total 14 kathas 16 dhurs of land appertaining to Khata No. 539, Plot No. 1012, the complainant is in possession of 11 katha 2 dhurs situated on the northern side, over which he has planted banana crops and mango and litchi trees, and where bricks and stones have also been stored. On the southern side of the said plot, there exists a residential house of Ramswarup Rai over 3 kathas 14 dhurs of land. It is alleged that on the date and time of occurrence, all the accused persons, being armed with deadly weapons, unlawfully entered upon the aforesaid land and started plucking fruits from the plants and trees belonging to the complainant. When an objection was raised by the complainant's son, Pinku Kumar Singh, the accused persons became furious, started abusing him and assaulted him with fists, slaps, lathi, and sticks, as a result of which he sustained injuries on his left eye as well as on other parts of his body.

4. It is further alleged that during the said occurrence, accused Raju Singh forcibly snatched the idol of Goddess Durga worth approximately Rs. 8,500/- from the neck of the complainant and attempted to drag him towards his house with the intention to kill. Upon the alarm raised by Pinku Kumar



Singh, locals arrived at the place of occurrence and rescued the complainant. It is also alleged that the accused persons damaged the standing crops and tore the clothes of Pinku Kumar Singh, causing a loss of approximately Rs. 1,500/-. Thereafter, Pinku Kumar Singh obtained medical treatment for the injuries sustained during the incident. For the aforesaid occurrence, the complainant submitted written applications before the police authorities on 20.05.2018 and 22.05.2018, but no action was taken. Thereafter, the present complaint was filed on 19.06.2018.

5. The learned counsel for the petitioners submits that the prosecution case is mala fide, malicious, and frivolous in nature and has been instituted with an ulterior motive. He further submits that there is no medical report available on record to substantiate the allegations of assault as narrated in the complaint. He further submits that the parties are agnates and neighbours, and the existence of a prior dispute with regard to the land, plants, and trees in question has been admitted even by the enquiry witnesses, clearly indicating that the present case is an outcome of longstanding civil and property disputes.

6. The learned counsel for the petitioners further submits that the prosecution side is in the habit of filing false



and frivolous cases, as is evident from the fact that an earlier complaint case, being Complaint Case No. 1443 of 1999, was dismissed due to failure of the prosecution, *vide* judgment dated 10.08.2016. It is further submitted that Title Appeal No. 09 of 2015 is pending between the parties before the Court of the learned District and Sessions Judge, arising out of Title Suit No. 16 of 1994, wherein a decree has already been passed in favour of the petitioners with respect to the same plots, including the land in question.

7. The learned APP for the State and the learned counsel for the O.P. No. 2 have opposed the prayer of the petitioners.

8. I have heard and considered the submissions of the parties and have also gone through the records of the case. From the reading of the complaint, it appears to be a mala-fide prosecution in which all the family members including three petitioners who are women have been made accused. There is general and omnibus allegation against the petitioners.

9. In view of the aforesaid discussions, the present application is allowed. Accordingly, the impugned order dated 23.07.2019 passed by the learned A.C.J.M-XIV, Gopalganj in Tr. No. 2240/2019 (arising out of Complaint Case



No.1219/2018) is hereby quashed.

10. The Principal District & Sessions Judge/ District and Additional Sessions Judge, Gopalganj is directed to dispose of the Title Appeal No. 09 of 2015 within three months of communication/production of a copy of this order. The Principal District & Sessions Judge/ District and Additional Sessions Judge will proceed ex-parte against the non cooperating party.

11. Let a copy of this order be communicated to the Principal District & Sessions Judge, Gopalganj through FAX for its compliance forthwith.

(Sandeep Kumar, J)

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