

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Cr.Misc. No.37126 of 2007**

1. RADHIKA DEVI, W/o Late Indeshwar Dubey.
  2. Baliram Pathak, S/o Late Kuldeep Pathak.
  3. Nayan Tara Pathak, W/o Baliram Pathak.
  4. Neeraj Pathak, S/o Baliram Pathak.
- All above (1-4) Resident of Mohallla Jakhi Bigha  
Dehri, P.S.-Dehri, District-Rohtas.

.....Petitioners.

Versus

1. THE STATE OF BIHAR.
2. Ashwani Kumar Dubey @ Ajay Kumar Dubey, S/o  
Srinivas Dubey, Resident of Mohalla Jakhi Bigha Dehri,  
P.S.-Dehri, District-Rohtas.

.....Opposite Parties.

For the petitioner : Mr. Ranjeet Kumar, Adv.  
: Mr. Gopi Jha, Adv.  
For the Opposite Parties : Mr. Chakradhari Sharan Singh, Adv.

**04. 29.01.2010** Learned counsel for the petitioners is permitted to make necessary correction in paragraph 1 of the petition.

Heard both the parties.

The petitioners are aggrieved by the order of cognizance dated 20.09.2006 by which the learned Judicial Magistrate, Rohtas in complaint case No. 465 of 2005 has taken cognizance for the offences under Sections 323 and 504/34 of the Indian Penal Code.

The complainant has alleged that the accused persons entered into their house and variously assaulted and threatened them on account

of the fact that there was a dispute with regard to a common passage for which a Title Suit No. 46 of 2000 was pending between the parties. The petitioner has placed on record the fact that the petitioner No. 2 had earlier filed a case against the complainant on 23.04.2005 for the offences under Sections 323, 341 and 427/34 of the Indian Penal Code numbered as Dehri P.S. Case No. 78 of 2005 and thereafter as a counter-blast the present case appears to have been instituted to save themselves from the rigours of the present case. There is no doubt that the date of occurrence of both the cases is one and there is land dispute between the parties for which a title suit is pending. Moreover, it is also admitted position that the complaint was filed after due delay.

It is a well settled principle of law that a legitimate prosecution should not be stifled at the threshold but at the same time the court can not be permitted to become a device to achieve oblique motives. The Supreme Court in one of the decisions reported in AIR 1977 SC 1489 has laid down that the High Court is entitled to quash a criminal proceeding

if it comes to the conclusion that the ends of justice requires that the proceeding have to be quashed.

From the background of the case, I am of the view that the present complaint has been filed belatedly only with an oblique motive to harass the present petitioner who had earlier instituted a case against the complainant.

For the reasons stated above the application is allowed and the entire proceeding of complaint case No. 465 of 2005 including the order dated 20.09.2006 is quashed.

Vikash/-

**(Anjana Prakash, J.)**

