

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.16972 of 2010

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1. Sangita Kumari @ Sangita Chaudhary, W/O Srikant Singh @ Sri Kant Chaudhary, R/O Moh.-Mahabir Sthan, Gali No.14 B, Sasaram, P.S.-Sasaram Model, Dist.-Rohtas.

2. Srikant Singh @ Sri Kant Chaudhary, S/O Late Ram Chandra Singh R/O Moh.-Mahabir Sthan, Gali No.14 B, Sasaram, P.S.-Sasaram Model, Dist.-Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar

2. Buchun Lal, S/O Late Suraj Lal, R/O Santoshi Mata Path, Gali No.11-G, Gaura Chhani, Sasaram, P.S.-Sasaram Model, Dist.-Rohtas.

.... Opposite Party/s

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Appreance:

For the Petitioners : Mr. Subhash Kumar No. 1, Adv.

For the State : Md. Sufiyan, A.P.P.

For the Opposite Party No. 2 : Mr. Sanjay Kumar, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL ORDER

9 30-09-2013

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the entire proceeding including the order of cognizance dated 15.9.2009 passed by the Chief Judicial Magistrate, Sasaram, in Sasaram Model P.S. Case No. 480 of 2009.

The case of the Informant is that on the date of occurrence when he had gone to his lands the Accused persons came thereupon and started to assault him. They also committed theft of his personal possession on account of which the present case was instituted.

It was stated in the First Information Report itself that a proceeding under Section 107 Cr. P.C. was pending between the parties. It

appears that prior to lodging this First Information Report, the Petitioner No. 2 had instituted Sasaram Model P.S. Case No. 189 of 2009 against the Informant and others in which charge sheet was submitted.

The submission of the Petitioners that evidently in the background dispute, the present First Information Report is nothing but an abuse of the process of the Court.

On the other hand, the counsel for the Informant submits that since a series of cases are pending between the parties, it would not be justified to exonerate the Petitioners when there are allegations against them of assaulting the prosecution party and committing theft of their personal possession.

Having gone through the background facts of the case, I would be inclined to hold that the present occurrence is one of assertion of Civil rights and rest of the allegations appear to be ornamental leveled with a purpose to proceed against them Criminally and, hence, deserves to be disbelieved.

In view of such, the application is allowed and the entire proceeding including the order of cognizance dated 15.9.2009 passed by the Chief Judicial Magistrate, Sasaram, in Sasaram Model P.S. Case No. 480 of 2009 is, hereby, quashed.

(Anjana Prakash, J)

S.Ali