

IN THE HIGH COURT OF JHARKHAND, RANCHI

Cr.M.P. No. 2669 of 2016

1.Awadh Kishore Lal
2.Shanti Devi @ Shanti Lal
3.Jitendra Kumar Lal @ Pintu Kumar
4.Nalin Kumar Lal @ Babloo @ Nahil Kumar Lal
5.Kundan Kumar Lal @ Kundan Kumar Petitioners
-- Versus --
The State of Jharkhand and Another Opposite Parties

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioners :- Mr. Dilip Kumar Prasad, Advocate
For the State :- Mr. Sunil Kumar Dubey, Advocate
For the O.P.No.2 :- Mr. Mukesh Kumar, Advocate

3/01.05.2024 Heard the learned counsels appearing on behalf of the petitioners, the respondent State as well as the O.P.No.2.

2. The prayer in this petition is made for quashing of the entire criminal proceeding including the order taking cognizance dated 27.09.2016, in connection with Complaint Case No.322 of 2016, pending in the court of learned Additional Chief Judicial Magistrate, Bokaro.

3. The complaint case was filed alleging therein that the complainant who is younger brother of the accused no.1 requested for partition of the ancestral property at village on 21.4.2016, then the accused persons become angry and thereafter, the complainant returned to Bokaro. The accused persons came at Bokaro on 24.4.2016 and

stayed at house of the complainant and when on 25.4.2016 the complainant demanded his share in ancestral property, then accused persons assaulted by fists and slaps and the accused no.2 assaulted wife of the complainant with slaps and pulled her hair and the accused no.1 snatched the golden chain and Rs.3000/- from complainant and accused nos.3, 4 and 5 took Rs.25,000/- from almirah.

4. Mr. Prasad, the learned counsel appearing on behalf of the petitioners submits that the petitioners and the O.P.No.2 are full brothers amongst themselves. He submits that the complaint petition has been filed alleging therein that all these petitioners have assaulted the complainant and even the persons who are residing at Delhi, NOIDA, respectively have also been implicated in the case. He draws the attention of the Court of the paragraph no.10 of the petition and submits that the petitioner no.3 is residing at Gaziabad and working in a private company and petitioner no.4 is residing at New Delhi and working as Head of Finance in STEAG O & M Company Pvt. Ltd and the petitioner no.5 is also residing at Delhi and doing job in a private company after doing MBA. He submits that in the supplementary affidavit itself it has been disclosed that there is property dispute between the parties and there is no injury report. He further submits that falsely the present complaint case is filed and that too, in absence of any affidavit. It is submitted that the petitioners have also instituted Title Suit No.103 of 2016 before the Civil Judge, Bihar Sharif in the District of Nalanda and on these grounds, he submits that maliciously the present case has been filed and in view of that the entire criminal proceeding may kindly be quashed.

5. The learned counsel for the O.P.No.2 submits that on the

complaint petition the learned court has taken cognizance. He submits that there is case and counter case between the parties and the case has been lodged by the petitioners against the O.P.No.2 being Ben P.S. Case No.72 of 2016 in the district of Nalanda and thereafter the present case has been lodged by the O.P.No.2 on 03.05.2016. He does not dispute the relationship between the parties. He further submits that the learned court has taken cognizance on looking into the solemn affirmation and enquiry witnesses and in view of that the entire criminal proceeding may not be quashed at this stage under section 482 Cr.P.C as the High Courts are very slow in quashing of the petition if the case is made out and he submits that this petition may kindly be dismissed.

6. In view of above submission of the learned counsel for the parties the Court has gone through the materials on record and finds that the first FIR registered by the petitioners against the O.P.No.2 and thereafter the present case has been lodged by the O.P.No.2 against the petitioners. It is further admitted position that the petitioners and the O.P.No.2 are full brothers amongst themselves. In solemn affirmation on the query by the learned court the complainant has stated that there is property dispute between the parties and he was not medically examined for any assault which suggest that maliciously the present case has been filed against the petitioners who happened to be brothers of the O.P.No.2. Further Title Suit No.103 of 2016 is pending before the competent court for the said property among the parties which clearly suggest that property dispute is going on between the parties who are brothers.

7. There is no doubt that if a case is made out, the High Court is required to proceed with circumspection and with all care for quashing

of the proceeding as has been submitted by the learned counsel for the O.P.No.2 but at the same time, if maliciously the case is filed and that is challenged in the High Court, the High Court is having more responsibility to examine the same with circumspection so that an innocent person may not be prosecuted in a criminal case. If a person decides to file a malicious case, every care is being taken in drafting of the complaint petition as well as in the contents of the FIR so that the ingredients of the sections may be made out and if such situation is there, the Court is required to read the things in between the lines. Coming to the facts of the present case, what has been recorded hereinabove, clearly suggest that maliciously the present case has been filed against the petitioner.

8. In view of above, to allow the present proceeding to continue further will amount to abuse of the process of law.

9. Accordingly, entire criminal proceeding including the order taking cognizance dated 27.09.2016, in connection with Complaint Case No.322 of 2016, pending in the court of learned Additional Chief Judicial Magistrate, Bokaro are quashed.

10. This petition is allowed and disposed of.

11. It is made clear that so far as the title suit is concerned, that will be decided in accordance with law without prejudice of this order as this order is passed only considering the parameters of section 482 Cr.P.C. and criminality aspect of the matter.

(Sanjay Kumar Dwivedi, J.)

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