

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 493 of 2019

1. Roshan Hazam @ Roshan Baraik					
2. Anuj Hazam @ Anuj Baraik	Petitioners	
Versus					
1. The State of Jharkhand					
2. Rakhi Kumari	Opp. Parties	

CORAM: HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

For the Petitioners : Mr. Juhi Kumari, Amicus Curiae
For the State : Mr. Ravi Prakash, Spl. P.P.

Order No. 09 Dated : 26.06.2024

This criminal revision is preferred against the order dated 30.01.2019 passed by the learned Judicial magistrate, Ranchi in Misc. Criminal Appeal No. 3808 of 2018 arising out of G.R. No. 6407/2014 by which the discharge petition of the petitioner was rejected and prima facie case was found to be made out under Section 379 of the IPC.

The written report lodged by Rakhi Kumari on 13.11.2014 is the basis of the case.

As per the F.I.R., there was theft of paddy from the field of the informant by Roshan Hazam and his father Anuj Hazam with other unnamed accused persons. On the basis of the written report, being F.I.R. Jagarnathpur PS Case No. 366 of 2014 was registered.

Police, on investigation, found the case to be true and submitted the charge sheet under Section 379 of the IPC against both the named accused persons. Discharge petition has been rejected on the ground that prima facie case was made out against the accused persons.

It is submitted by the learned Amicus Curiae that dispute is purely civil in nature and the title suit is pending between the parties. One S.A.R. Case No. 412 of 1993/1994 was decided in favour of grandfather of the petitioners.

Learned A.P.P. has defended the impugned order.

Having considered the submissions, this Court is of the view that mere pendency of a title suit cannot be a ground for claiming discharge from the offence of theft, unless and until there is an order of competent Court that it was the accused who was in possession, and informant had lodged the case maliciously as

such no relief can be granted at the stage of discharge. Plea of title and/or possession in defence can be considered during trial and not at the time of framing of charge.

I do not find merit in the criminal revision, which is accordingly rejected.

The service rendered by learned Amicus Curiae is appreciable. Secretary, Jharkhand High Court Legal Services Committee is directed to pay the sum of Rs. 5000/- to her at the earliest.

(Gautam Kumar Choudhary, J.)

Pawan/-
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