

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(s). 628 OF 2009

VIJAY KISHORE PRASAD SINGH & ANR. ... APPELLANT(S)

VERSUS

STATE OF BIHAR & ANR. ...RESPONDENT(S)

O R D E R

This appeal arises out of the judgment and order  
dated 31.01.2008 passed by the High Court  
of

Judicature at Patna in Criminal Misc. No. 45226 of  
2006 whereby the High Court dismissed the applicants'  
petition filed by the appellants herein declining to  
quash the F.I.R. for the alleged occurrence of offence  
on 30.11.2005 at 5:30 p.m. An F.I.R. was registered  
against the appellants under Sections 323, 341 and 379  
read with Section 34 of the Indian Penal Code ("IPC"  
for short). It is stated that the offences alleged  
under Sections 323, 341 and 379 IPC are exclusively  
triable by the Court of Gram Panchayat/Katchahry under  
Section 103 of the Bihar Panchayet Raj Act, 1993 and

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that a Judicial Magistrate has no jurisdiction to take

Digitally signed by  
Sushil Kumar Rakheja  
Date: 2015.02.13  
18:05:13 IST  
Reason:

cognizance of the offences which are specific  
ally  
barred under Section 110 of the Bihar Panchayat Raj  
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Act. The appellants herein have filed a petition  
before the High Court under Section 482 CrPC praying  
to quash the order passed by the Chief Judicial  
Magistrate, Nalanda, taking cognizance under Sections  
341 and 323 IPC. The High Court dismissed the petition

and declined to quash the F.I.R. inter alia observing that on the charges levelled against the appellants, prima facie case is made out under Section 392 IPC which is triable only by the Court of Judicial Magistrate. Being aggrieved, the appellants have filed this appeal.

We have heard learned counsel appearing for the parties and perused the material placed on record.

Learned counsel for the appellants has drawn our attention to the contents of the F.I.R. and submits that as per the averments made under the F.I.R., no offence under Section 323 and 392 IPC is made out and doing so the High Court was not right in holding that the offence under Section 392 IPC is made out. He, therefore, prayed for allowing of the appeal.

On a perusal of the F.I.R. it is seen that the allegation of the complainant is that the complainant has refused to give the appellants rangdari and on refusal the appellants took away Rs.500/- from the

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pocket of the complainant's shirt and the appellants are also alleged to remove a watch from his left wrist and then the appellants are alleged to point a pistol towards the chest of the complainant and threatened to shoot him. Without expressing any opinion on the merits of the matter, we are of the view that the matter is elaborately considered by the High Court. As alleged in the complaint, a prima facie case is made out under Section 392 IPC, which has rightly been observed by the High Court that offence under Section 392 IPC is triable by the Judicial Magistrate. We do not find any ground for our interference.

In view of the above, this appeal is dismissed. Since the occurrence is of the year 2005, the Chief Judicial Magistrate is directed to expedite the trial

