

ORDER DATED - 23.08.2017:

*Attendance is submitted for complainant.
All three accused persons are present by filing hazira.*

The record is taken up for passing order with regard to petition dated - 03.04.2017 filed on behalf of the accused persons.

The contentions of the accused persons in their petition, in brief, is that this Court on 20.05.2015 without receiving complete report from the concerned P.S with regard to GDE No. 1252 and Titagarh P.S Case No. 483 of 2012 dated- 17.08.2012 was pleased to issue summons upon the accused persons. It has been further contended that on the same cause of action another specific case being Titagarh P.S case No. 483 dated - 17.08.2012 is subjudice, which amounts to double jeopardy of the accused persons. As such, the accused persons have prayed for necessary orders.

The complainant has filed his written objection against the petition under consideration wherein he has contended that the contentions of the accused persons are all false and fabricated. He has highlighted that the cause of action in connection with this instant case and that of Titagarh P.S Case No. 483 of 2012 dated - 1708.2012 are different. That the incident in c/w this case took place on 14.05.2012 whereas the incident in c/w Titagarh P.S Case No. 483 of 2012 dated - 1708.2012 took place on 5.08.2012. He has hence prayed for dismissal of the petition under consideration. The written objection of the complainant has been supported by an affidavit.

I have already heard the Ld Advocates for both the sides on the previous date itself. I have also perused the materials garnered in this record and the documents filed on behalf of the accused persons.

Now, on careful perusal of the Extract Copy of GDE no. 1252 dated - 14.05.2012 received by this Court on 20.05.2015 it appears that the complainant was requested by the PS to approach the Court as the dispute appeared to be civil in nature. The said report does not suggest anything concerning any specific case was started in c/w the GDE no. 1252.

Surprisingly, the accused persons have only filed a surrender slip in support of their contention. It was their duty to file relevant copies/documents in c/w Titagarh P.S Case No. 483 of 2012 dated - 1708.2012 which could have convinced this Court to the effect the instant case and Titagarh P.S Case No. 483 of 2012 dated - 1708.2012 was filed on the basis of same cause of action. However, the accused persons chose not to do so for the reasons best known to them. On the other hand the complainant's written objection has been supported by affidavit wherein he has clarified that the incident in c/w this case took place on 14.05.2012 whereas the incident in c/w Titagarh P.S Case No. 483 of 2012 dated - 1708.2012 took place on 5.08.2012.

As such, in absence of any document, to substantiate the claim of the accused persons I am not inclined to allow their petition.

*Therefore, in the considered opinion of this Court, the petition filed by the accused persons is considered and **rejected** on contest.*

The petition is disposed of.

To 27-11-2017 for plea.