

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.17260 of 2015

Arising Out of PS.Case No. -386 Year- 2014 Thana -SIKARPUR District-
WESTCHAMPARAN(BETTIAH)

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1. Niranjan Kumar @ Babloo son of Late Raghav Prasad
2. Naresh Kumar son of Mithila Bihari Both R/o Village- Purani Bazar
Narkatiya, P.S.- Shikarpur, District- East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Anjani Devi wife of Sanjay Kumar, R/o Village- Purani Bazar Narkatiya,
P.S.- Shikarpur, District- East Champaran

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha

For the Opposite Party/s : Mr. Navin Kumar Pandey (App)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR
SINGH
ORAL ORDER

2 23-04-2015 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 28.01.2015 passed in Shikarpur P.S.Case No.386 of 2014 by which the learned Chief Judicial Magistrate, Bettiah finding a prima-facie case to be made out under Sections 448, 341, 323 and 504 read with 34 of the Indian Penal Code against the petitioners summoned them to face trial. The said police case was registered on the basis of the written report submitted by one Anjani Devi on 11.11.2014. On conclusion of investigation, the police submitted



chargesheet under Sections 448, 341, 323, 504 read with 34 of the Indian Penal Code against the petitioners and after examining the materials on record, the learned Chief Judicial Magistrate, Bettiah, West Champaran vide order dated 28.01.2015 took cognizance of the offence and summoned the petitioners to face trial. The learned counsel for the petitioners has submitted that the petitioners have been implicated with ulterior motive as prior to the present case an FIR was instituted on the basis of the statement given by petitioner no.1 Niranjana Kumar @ Babloo against the husband and brother-in-law of the informant of the present case. It has also been submitted that in the year 2013, the brother-in-law of the informant had instituted a complaint case vide complaint case no.2667(C) of 2012 in which cognizance was taken vide order dated 02.05.2013 passed by the learned Judicial Magistrate, Ist Class, Bettiah. However, the aforesaid order dated 02.05.2013 was quashed vide order dated 21.11.2014 passed in Cr.Misc.No.18396 of 2014 by a Bench of this Court and, only thereafter, the present FIR has been instituted.

At the stage of summoning the accused, the Magistrate can not look into any document other than the FIR, the report submitted by the police under Section 173(2) of the Code of Criminal Procedure and the materials collected in course of the

investigation including the statements recorded under Section 161 of the Code of Criminal Procedure. At that stage, the accused have no locus standi in the matter.

In that view of the matter, if the learned Magistrate after considering the police report and other materials found a prima-facie case to be made out against the petitioners, no fault can be found with the order. In that view of the matter, I find no merit in this application. Accordingly, this application is dismissed.

However, it would be open to the petitioners to raise all the points available to them before the Magistrate concerned at the stage of framing of charge.

(Ashwani Kumar Singh, J)

B.Kr./-

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