

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41462 of 2012

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1. Abhay Kumar Singh @ Munna Singh, son of Suchit Narain Singh.
 2. Rita Devi, wife of Sanjay Singh (Mukhiya).
 3. Sanjay Singh, son of Suchit Singh.
- All are residents of Village- Bhagwanpur, Police Station- Gopalganj,
District- Gopalganj.

.... Petitioners.

Versus

1. The State of Bihar.
2. Wakil Singh, Son of Late Ram Lochan Singh, resident of Village-
Shyampur, P.S. Siwan Muffasil, District- Siwan.

.... Opposite Parties.

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Appearance :

For the Petitioners : Mr. Radha Krishna Singh, Advocate.
For the State : Mr. A.A.Khan, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

2 13-03-2015 Heard learned counsel for the petitioner and learned
counsel for the State.

This is a petition for quashing the order taking
cognizance dated 13.07.2012 passed by the Chief Judicial
Magistrate, Siwan, in Siwan Muffasil P.S. Case No. 26 of 2012
by which cognizance has been taken for offence under Sections
409, 420, 467, 468, 471 and 120B of Indian Penal Code.

There is allegation that petitioner no. 1 has been
appointed as Nyay Mitra by petitioner no. 2 the sister-in-law
(Bhabhi) of P.W.1 being Mukhiya and petitioner no. 3 is the
husband of petitioner no. 2 and brother of petitioner no. 1 on the

basis of forged certificate under a conspiracy. It is alleged that petitioner no. 2 and 3 are husband and wife and Mukhiya and Up-Mukhiya in conspiracy appointed petitioner no. 1 on the basis of forged mark sheet showing higher mark.

Learned counsel for the petitioners submits that they have been falsely implicated in this case.

The cognizance has been taken for offence under Sections 409, 420, 467, 468, 471 and 120(B) of the Indian Penal Code.

However having regard to the allegation that the appointment of petitioner no. 1 by his sister-in-law (Bhabhi) petitioner no. 2, the Mukhiya and petitioner no. 3, the husband of petitioner no. 2 and brother of petitioner no. 1 is on the basis of forged mark sheet showing higher marks prima facie makes out an offence. Whether the allegation is true or false is matter of consideration before the Trial Court during the trial on the basis of evidence adduced and opportunity given for rebuttal. This Court at this stage while exercising jurisdiction under Section 482 of Cr.P.C. cannot go into the question either the fact is true or false or even to appreciate the material on record. However, P.W.3 is said to be brother of P.W. 1. Hence this Court at this stage cannot go into the fact. However, the allegation made prima facie makes

out an offence. The petitioners may raise the issue at the stage of framing of charge.

Hence I am not inclined to interfere with the order taking cognizance at this stage. However, the petitioners will be at liberty to raise issue at the stage of framing of the charge.

With this observation, this petition is disposed of.

m.p.

(Gopal Prasad, J)

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