

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41427 of 2012

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1. Md. Mustaque Alam, Son of Late Badruddin.
 2. Md. Shahid Raza @ Rinku, Son of Md. Mustaque Alam.
 3. Md. Ashif Raza @ Pinku, Son of Md. Mustaque Alam.
 4. Nasima Khatoon, Wife of Md. Mustaque Alam.
 5. Rumi, daughter of Md. Mustaque Alam.
All resident of Village- Rampur, Mukhiya Tola, P.S. K. Nagar, District-
Purnea.
 6. Ruby, wife of Md. Afroz Alam, daughter of Md. Mustaque Alam,
resident of Village- Chakai, P.S. Joki Hat, District- Araria.
- Petitioners.

Versus

1. The State of Bihar.
 2. Md. Affaque Alam, son of Late Nazamuddin, resident of Village-
Rampur, Mukhiya Tola, P.S. K. Nagar, District- Purnea.
- Opposite Parties.

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Appearance :

For the Petitioners : Mr. Amit Kumar Anand, Advocate.
For the State : Mr. Meena Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

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

This is a petition for quashing the order dated 31.08.2012 passed by the learned Sessions Judge, Purnea, rejecting the petition for quashing the order taking cognizance for offence under Sections 341, 323, 379 and 504 of the Indian Penal Code passed by the learned Chief Judicial Magistrate, vide order dated 08.09.2011 in connection with G.R. No. 1097 of 2011 arising out of K. Nagar (Champa Nagar) P.S. Case No. 109 of 2011.

Allegation against these petitioners is that they have assaulted the informant and his family members and snatched

Rs.3,000/- from his pocket.

Learned counsel for the petitioners submits that allegation against these petitioners is general and omnibus, though charge sheet has been submitted for offence under Sections 323 and 504/34 of the Indian Penal Code, but cognizance has been taken for offence under Sections 341, 323, 379 and 504 of the Indian Penal Code in connection with K. Nagar (Champa Nagar) P.S. Case No. 109 of 2011, G.R. No. 1097 of 2011. It is further submitted that petitioners have been falsely implicated in this case and the entire family members have been indulged in connection with allegation of theft supported by the maternal uncle.

However, this fact whether the allegation is true or false is subject matter to be decided by the trial court and not to examine by this Court at this stage nor this Court at this stage can go into defence of the accused nor meticulously to appreciate the material on record.

Having regard to the fact that charge sheet has been submitted for offence under Sections 323 and 504/34 of the Indian Penal Code and cognizance has been taken for offence under Sections 341, 323, 379 and 504 of the Indian Penal Code where all materials against all the petitioners can be looked into at the stage of framing of the charge.

Hence I am not inclined to interfere with the order taking cognizance at this stage. However, petitioners will be at liberty to raise issue at the stage of framing of the charge and if petitioners may raise issue then trial court shall consider this fact in accordance with law.

With this observation, this petition is disposed of.

(Gopal Prasad, J)

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