

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.38519 of 2015

Arising Out of PS.Case No. -222 Year- 2010 Thana -SITAMARHI COMPLAINT CASE District-
SITAMARHI

- =====
1. Jageshwar Raut Son of late Jagarnath Raut
 2. Rameshwar Raut Son of late Mushafir Raut
 3. Jitendra Raut son of late Suresh Raut
 4. Sudhir Raut Son of Jageshwar Raut
 5. Sunil Raut Son of Nageshwar Raut
 6. Sujit Raut son of late Nageshwar Raut
 7. Daya Raut @ Daya Chaurasia son of Binod Raut

All are residents of Village- Jajuar, Tola-Lakshmipur P.S.- Katra, District Muzaffarpur.

.... Petitioners

Versus

1. The State of Bihar
2. Subhash Chandra Raut S/o Late Rudal Raut, Resident of Village- Jajuar, Tola, Lakshmipur P.S. Katra, District Muzaffarpur at present resident in Village-Sirsi, Narhari Tole, P.S. Nanpur, District Sitamarhi.

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Chandra Mauli Chaurasia, Advocate

For the Opposite Party/s : Mr. Prem Kumar Jha, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 22-04-2016

By way of the present application preferred under Section 482 of the Code of Criminal Procedure, 1973 (for short “CrPC”), the petitioners seek quashing of the entire criminal proceedings of Trial No. 521 of 2013, arising out of Complaint Case No. 222 of

2010, wherein cognizance has been taken for the offence punishable under Sections 323 and 504 of the Indian Penal Code.

2. I have heard learned counsel for the petitioners, learned counsel for the State and perused the record.

3. The allegations made in the complaint do attract the ingredients of a cognizable offence punishable under Sections 323 and 504 of the Indian Penal Code. It would be apparent from the impugned order dated 09.12.2010 passed by the learned Magistrate that the allegations made in the complaint have been duly supported by the complainant and three other witnesses, namely, Amarendra Raut, Nand Kishore Raut and Satyanarain Raut.

4. Learned counsel for the petitioners has contended that due to an ongoing civil dispute malicious case has been instituted. In my view, the defence of the petitioners cannot be a ground on the basis of which the summoning order can be assailed. The summoning order has been passed by the learned Magistrate on the basis of the complaint, the statement made by the complainant on oath and the statements of the witnesses recorded in course of inquiry under Section 202 of the CrPC.

5. Regard being had to the evidence on record, in the opinion of this Court, the learned Magistrate has committed no

illegality in summoning the petitioners in exercise of power conferred under Section 204 of the CrPC.

6. Accordingly, the application, being devoid of any merit, is hereby dismissed.

(Ashwani Kumar Singh, J.)

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