

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30354 of 2013

Arising Out of PS.Case No. -58 Year- 2012 Thana -RAGHOPUR District- SUPAUL

- =====
1. Manju Devi W/O Sanjay Yadav Resident Of Village- Dharhara, P.S.-
Raghopur, District- Supaul
 2. Anita Devi W/O Rajendra Yadav Resident Of Village- Dharhara, P.S.-
Raghopur, District- Supaul
 3. Bilekshini Devi W/O Shaligram Yadav Resident Of Village- Dharhara, P.S.-
Raghopur, District- Supaul
 4. Sanjay Yadav S/O Shaligram Yadav Resident Of Village- Dharhara, P.S.-
Raghopur, District- Supaul

.... Petitioners

Versus

1. The State Of Bihar
2. Kaushalya Devi W/O Kameshwar Yadav Resident Of Village- Dharhara, P.S.-
Raghopur, District- Supaul

.... Opposite Parties.

=====

Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Singh, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP
For Opp. Party No. : Mr. Sandeep Singh, Advocate
Mr. Ashok Kumar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 02-08-2016

Heard learned counsel for the petitioners, learned
counsel for the State and learned counsel for opposite party no. 2.

2. By way of the present application preferred
under Section 482 of the Code of Criminal Procedure, the
petitioners have challenged the order dated 23.04.2013 passed by

the learned Sub Divisional Judicial Magistrate, Birpur in Raghopur P. S. Case No. 58 of 2012, whereby cognizance of the offences punishable under Sections 341, 323, 354, 427, 504/34 of the Indian Penal Code has been taken against the petitioners and others and summons have been issued against them.

3. The aforesaid Raghopur P. S. Case No. 58 of 2012 was instituted on the basis of a written report submitted by one Kaushalya Devi wife of Kameshwar Yadav. It has been alleged in the written report that on 08.05.2012, at about 5 pm. while she was busy in construction of boundary wall, the accused persons, including the petitioners variously armed came there and started abusing her. They demolished the boundary wall and assaulted her with fists and slaps. They dragged her from the place of occurrence and outraged her modesty by making her semi-naked. It has further been alleged that they snatched away golden chain worth Rs.30,000/- and some other ornaments, earring, etc. from her possession. When her daughter tried to rescue her, they not only abused her, but also outraged her modesty. It has also been alleged that they entered into her house and took away cash, cloth, utensils, etc. from her house.

4. On completion of investigation, the police submitted final report against the petitioners vide Final Report No.



66 of 2012 dated 30.05.2012. However, four of the co-accused persons were sent up for trial for the alleged offences punishable under Sections 341, 323, 354, 427 and 504/34 of the Indian Penal Code. On perusal of the materials on record, learned Sub Divisional Judicial Magistrate, Birpur differed with the police report and took cognizance of the aforesaid offences against the petitioners too.

5. It is submitted by learned counsel for the petitioners that the order taking cognizance is bad in law as no reason had been assigned by the learned Magistrate why he has differed with the police report submitted under Section 173(2) of the Code of Criminal Procedure.

6. On the other hand, learned counsel for the State and learned counsel for opposite party no. 2 have submitted that the impugned order passed by the learned Sub Divisional Judicial Magistrate is reasoned one. It has categorically been stated in the order that the witnesses examined during investigation have supported the allegations made in the FIR and in that view of the matter, no illegality can be found in the impugned order.

7. I find substance in the submission made by the learned for the State and learned counsel for opposite party no. 2. The allegations made in the FIR clearly attract ingredients of the offence. The Sub Divisional Judicial Magistrate has given a clear

finding that the witnesses examined during investigation have supported the prosecution case and there are enough materials on record to take cognizance of the offences.

8. In that view of the matter, I find no illegality in the impugned order. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

Kanchan/-

U		T	
---	--	---	--