

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2203 of 2015

Arising Out of PS.Case No. -102 Year- 2013 Thana -PAHARPUR District-
EASTCHAMPARAN(MOTIHARI)

=====

1. Shivnath Giri Son of Late Yoghi Giri
2. Bhagnath Giri Son of Late Singhashan Giri
3. Prabhu Giri Son of Late Yoghi Giri all resident of Vill- Sonwal Godam
P.S- Malahi Distt- East Champaran

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Dhannjay Kumar No 2, Adv.

For the Opposite Party/s : Mrs. Ansuaiya Jaiswal (App)

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

2 23-12-2016 Heard both sides.

The petitioner seeks quashing of the order dated 03.12.2014 passed in Sessions Trial No. 412/2014 by which the learned 7th Additional District & Sessions Judge, East Champaran at Motihari, dismissed the petition of the petitioner filed under Section 228 of the Cr.P.C.

The informant Nagina Yadav alleged that on 29.04.2013 at about 7.00 in the morning his wife Dukhi Devi and two children were feeding the cattles. Shivnath Giri and Sunil Giri kept husk in the cattle-shed. There was some altercation between them on one hand and his wife on the other hand. Petitioners are alleged to



have abused and assaulted the wife and children of the informant. Subhash Giri alleged to have given *Farsa* blow on the head of wife of the informant. Sunil Giri took ornaments from the neck of the wife of the informant. The police registered the case under Section 307 and other sections of the Indian Penal Code. During the course of investigation, Section 315 of the Indian Penal Code was added, as there was miscarriage of three months foetus. After investigation police submitted final form finding the case true against the petitioners. Cognizance of the offence was taken and thereafter, petitioners filed petition under Section 228 of the Cr.P.C. mainly on the ground that in the entire F.I.R. there is no allegation that the petitioner assaulted the wife of the informant on her abdomen. The miscarriage is not at all linked with the occurrence, therefore, no offence under Section 315 of the Indian Penal Code is made out and the Additional District & Sessions Judge, East Champaran at Motihari has wrongly rejected the petition of the petitioners, but it appears that the informant alleged that petitioners assaulted his wife and children. Of course, the informant did not make specific allegation of assault on abdomen of his wife, but the doctor at the first instance while treating Dukhi Devi wife of the informant found pain in lower abdomen and the opinion was kept reserved with regard to the nature of injuries.



Miscarriage was caused on account of aforesaid injury and the Investigating Officer made prayer for adding Section 315 of the Indian Penal Code in the F.I.R. Therefore, I find Additional District & Sessions Judge, East Champaran at Motihari has rightly rejected the petition of the petitioners, concluding that on account of assault made by the petitioners prima facie it appears that miscarriage was caused.

Considering the facts aforesaid, I do not find any merit in the aforesaid petition. Accordingly, this quashing petition is dismissed.

(Prabhat Kumar Jha, J.)

Vinita/-

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

