

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32570 of 2013

Arising Out of PS.Case No. -21 Year- 2011 Thana -GAYA GRP CASE District- GAYA

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1. Vikash Kumar @ V. Kumar, son of late Ram Anugrah Singh, resident of E/318-A, M.I.G., Pratap Vihar, Ghaziabad, Uttar Pradesh,
 2. Archana @ Archana Bhaskar, W/O Vikas Kumar, R/O - E/318-A, M.I.G., Pratap Vihar, Ghaziabad, Uttar Pradesh,
 3. Aniket Bhaskar @ Aniket Bhaskar @ Anket, S/O Prabhas Kumar, R/O - E/318-A, M.I.G., Pratap Vihar, Ghaziabad, Uttar Pradesh,
 4. Prabhas Kumar Bhaskar @ Dudul @ Prabhas Bhaskar @ Dutul, s/o late Nunu Chandra Bhaskar, R/O Prem Nagar, Horilganj, Jehanabad
 5. Asha Bhaskar @ Asha Devi @ Koilwa Wali @ Asha, W/O Prabhas Kumar Bhaskar, R/O Prem Nagar, Horilganj, Jehanabad

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Suryaao Prasad Singh, Advocate
Mr. Durga Narayan, Advocate
For the Opposite Party/s : Mr. Ram Chandra Sahani, Advocate
For the Informant : Mr. Kumar Nikhil, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 02-02-2017

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order of cognizance dated 21.11.2012 passed by the Railway Magistrate, Gaya, in G. R. P. P.S. Case No.21 of 2011 by which the learned Magistrate has taken cognizance against the petitioners under Section(s) 341, 323, 504, 379, 364, 307 Indian Penal Code and Section 27 of the Arms Act.

Heard learned counsel for the petitioners and the learned APP for the State as well as learned counsel for the Informant.



It has been submitted that the police after investigation submitted final form in the case but the Court below took cognizance against the petitioners under Section(s) 341, 323, 504, 379, 364, 307 Indian Penal Code and Section 27 of the Arms Act.

Learned counsel for the Informant has submitted that there are sufficient material against these petitioners in the Case Diary as mentioned in para 2, 3, 24 and 25 of the Case Diary. Learned court below after perusing the materials against the petitioners took cognizance against them.

Learned APP has submitted that there is no illegality in the impugned order. The learned APP after looking into the materials in the Case Diary has stated that witnesses have supported the case of the Informant against the petitioners.

Perused the impugned order as well as the allegation in the Case Diary.

This Court finds that these petitioners are named in the First Information Report. The police after investigation submitted Final Form against the petitioners. The learned Magistrate after looking into the Case Diary has found that the witnesses in their statement before the police during investigation, as mentioned in para 2, 3, 24 and 25, have supported the case against these petitioners and, accordingly, cognizance was taken against the petitioners.

The police has also mentioned about the Injury Report produced by the Informant, Manish Kumar, before the police, which



is mentioned in para 144 of the Case Diary.

The Magistrate is only required to see the *prima facie* case at the time of taking cognizance on the basis of allegation in the written report and the materials in the Case Diary. He is not required to look into the defence produced by the accused persons.

Learned counsel for the petitioners has submitted that the police in the supervision note have stated that no case is made out against the petitioners.

Statement in the supervision note is just a version of the superior Police Officer and the same does not have any evidentiary value to be taken into account by the learned Magistrate at the time of taking cognizance.

Therefore, this Court does not find any illegality in the impugned order.

This application is, accordingly, dismissed.

However, the petitioners are given liberty to raise all these points, which have been taken in this quashing application, before the Court below at the appropriate stage, which shall be considered and disposed off on its own merit.

(Sanjay Priya, J)

JA/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10-02-2017
Transmission Date	10-02-2017

