

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38019 of 2013

Arising Out of PS.Case No. -70 Year- 2011 Thana -AIRPORT District- PATNA

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1. Anil Kumar, son of Late Brahmdeo Prasad,
 2. Aasha Kumari, wife of Anil Kumar &
 3. Animesh Kashyap, son of Anil Kumar, all resident of Riding Road
Shekhpura, P.S.-Hawai Adda, District-Patna.

.... Petitioners

Versus

1. The State of Bihar &
2. Ratnesh Kumar Singh, son of Shri Shyam Bihari Singh, Ridivy Road,
Shekhpura, P.S. Hawai Adda, District-Patna.

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Manoj Kumar

For the Opposite Party : Mr. Kumar Ranjit Ranjan, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

5 25-01-2017 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

The petitioners have filed the petition under Section 482 of the Cr.P.C. for quashing the order dated 25.08.2011 passed by Sri Sunil Kumar-II, Judicial Magistrate, Ist Class, Patna in Hawai Adda P.S.Case No.70 of 2011 whereunder cognizance for the offence under Sections 448, 341, 323, 337 and 504/34 of the IPC has been taken.

The case, in brief, is that all the petitioners entered into the house of the informant and out of them petitioner no.1 assaulted the informant on his head by brick and petitioner no.2 assaulted with by *lathi*. The case was registered and after



investigation, police submitted chargesheet. On perusal of the case diary and material on record, the court below finding prima-facie case took cognizance of offence.

The learned counsel for the petitioners submits that the court below without applying judicial mind passed the order in mechanical manner. The present case has been lodged as counter blast to the petitioners' case vide Hawaii Adda P.S.Case No.71 of 2011. The informant in order to create defence has lodged the present case with false and frivolous allegation.

The learned APP for the State on the other hand, opposed the submission.

On perusal of FIR and impugned order, I find that all the petitioners are named in the FIR and specific allegation is that they entered into the house of the informant and assaulted him. The matter was investigated and police submitted chargesheet. It is true that there is also a counter version from the side of the petitioners, which in the facts and circumstance of the case, cannot be taken into consideration at this stage. Both parties are at litigating term for land dispute. The Magistrate after perusing the case diary found sufficient material and, accordingly, took cognizance.

Keeping in view of the fact that there were sufficient



materials on record to proceed with the case, the Court is of the opinion that the learned Magistrate has rightly taken cognizance of offence.

Accordingly, I do not find any merit in the petition.

Petition stands rejected.

(Sanjay Kumar, J)

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