

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34628 of 2014

Arising Out of Case No. -594 Year- 2014 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

- =====
1. Sujit Singh @ Sujit Kumar
 2. Sumit Kumar Singh @ Sumit Kumar @ Sunil Kumar
Both S/o Biraj Singh @ Brajraj Singh
 3. Upendra Singh @ Upendra Kumar, S/o Jang Bahadur Singh
All of Village Trilokpur, Police Station Uchkagaon, District Gopalganj.
 4. Bipin Singh, S/o Yodha Singh, Resident of Village Barhara, Police Station
Gopalpur, District Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sumitra Devi, W/o Bijesh Singh Resident of Village Trilokpur, Police Station
Uchkagaon, District Gopalganj.

.... Opposite Party/s

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Appearance :

For the Petitioner/s :

For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 21-11-2017

Heard learned counsel for the petitioners, learned
counsel for the State and learned counsel for the O.P. No. 2.

2. Petitioners have filed this application for setting aside
impugned order dated 14.07.2014 passed by learned Sub Divisional
Judicial Magistrate, Gopalganj in Complaint Case No. 594 of 2014
thereby taking cognizance of offence under Sections 323 and 354 of
the Indian Penal Code.

3. Learned counsel for the petitioners submits that
complaint is malicious in nature so the cognizance order requires to be
set aside. He further submits that prior to lodging of the present



complaint, an FIR was lodged vide Gopalganj S.C./S.T. P.S.Case No. 9 of 1964 against these petitioners by some of the villagers of the complainant but not disclosing the relationship with the accused and two witnesses of the said case are uncles of the petitioners, so to put pressure, this false case was lodged.

4. Contrary to that, learned counsel for the O.P. No. 2 submits that there is no ground for interfering with the cognizance order. Allegation itself is specific and discloses *prima facie* case in which the court has taken cognizance, however the defence of the accused cannot be considered for setting aside the criminal proceeding.

5. Having considered the aforesaid facts and circumstances of the case, it is apparent that there is no direct enmity between the complainant and the accused persons and this complaint cannot be malicious because uncles of the petitioners are witnesses in another criminal proceeding. The allegations levelled in the complaint make out a *prima facie* case, so there is no any ground for interfering in the cognizance order. This application stands dismissed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.11.2017
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