

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38152 of 2013

Arising Out of PS.Case No. -184 Year- 2012 Thana -RAJGIR District- NALANDA
(BIHARSHARIFF)

- =====
1. Lallu Ram Son Of Late Sanichar Ram Resident Of Mohalla - Sichhak Coloney (Teacher Coloney) Kumhrar, P.S. - Agamkuan, District - Patna
 2. Abhishek Kumar Son Of Lallu Ram Resident Of Mohalla - Sichhak Coloney (Teacher Coloney) Kumhrar, P.S. - Agamkuan, District - Patna
 3. Amit Kumar @ Chhotu Son Of Lallu Ram Resident Of Mohalla - Sichhak Coloney (Teacher Coloney) Kumhrar, P.S. - Agamkuan, District - Patna

.... Petitioners

Versus

1. The State Of Bihar
2. Dulari Devi Wife Of Late Rajendra Kumar Resident Of Village - Panditpur, Devi Sthan, P.S. - Rajgir, Dist.- Nalanda

.... Opposite Parties

=====

Appearance :

For the Petitioners : Mr. Rudra Deo, Advocate

For the Opposite Party : Mr. Madan Kumar, APP

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

4 18-01-2017 The petitioners have filed the present petition under Section 482 of the Cr.P.C. for quashing the order dated 07.01.2013 whereunder the CJM, Nalanda took cognizance of offence against the petitioners for the offence under Sections 448, 341, 323, 379 and 504/34 of the IPC.

The case in brief is that one Dulari Devi, Opposite Party No.2 submitted a written report at police station alleging inter-alia that in the night of 15.09.2012 these petitioners entered into her house and started abusing and assaulting her. They ransacked her house and at that time, petitioner Abhishek Kumar



was holding pistol in his hand. They further took gold chain and cash amount of Rs.10,000/- from her suitcase and escaped from the place of occurrence. After occurrence Police was informed on telephone and the present case was registered. After investigation, police submitted chargesheet vide C.S.No.197 of 2012 dated 31.10.2012. The matter was reinvestigated under Section 173(8) of the Cr.P.C. and after completing reinvestigation, the police as per instruction of higher authority submitted final form.

Learned counsel for the petitioners submitted that this case is counter blast to Agamkuan P. S. Case No.181 of 2011 which was lodged by Nitu Kumari, daughter of petitioner no.1 and sister of petitioners no. 2 and 3 against the present informant and her son Baljeet Kumar.

During re-investigation the police collected call-details of mobile phone of petitioner Lallu Ram and Abhishek Kumar (petitioners) which revealed that they were not present within the tower location of Rajgir where place of occurrence situates. The court below has erred in taking cognizance and so the order is fit to be set aside.

The learned counsel for Opposite Party No.2 as well as learned APP for the State submitted that the learned



Magistrate after perusing the case diary found sufficient material and rightly took cognizance of offence. The petitioners will have opportunity to raise their defence as regards their false implication at the time of trial. The order of learned court below does not suffer any illegality warranting any interference.

On perusal of impugned order, I find that after submission of written report, the police registered Rajgir P.S.Case No.184 of 2012. After investigation, Police submitted chargesheet under Sections 448, 341, 323, 379 and 504/34 of the IPC. The learned CJM after going through the case diary and material on record, took cognizance under the aforesaid Sections as per impugned order dated 13.06.2013. Subsequently, police submitted final form and the CJM differing with the final report refused to reconsider its earlier order taking cognizance. The petitioners are at litigating term with the informant. The daughter of the petitioner no.1 is daughter-in-law of the present informant and one matrimonial case is also pending between the daughter of petitioner no.1 and son of the informant. The defence of petitioners as regards false implication on account of case lodged against the informant would be considered at the time of trial and the same is required to be examined by Trial Court at the time of trial.



In view of above facts, I do not find any apparent error in the order of cognizance. The petition stands dismissed.

(Sanjay Kumar, J)

B.Kr./-

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

