

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36924 of 2013

Arising Out of PS.Case No. -101 Year- 2012 Thana -COMPLAINT CASE District- SHEOHAR

- =====
1. Shyam Narayan Singh Son Of Late Vasistha Singh Resident Of Village - Dhankaul, P.S. - Piprahi, District - Sitamarhi
 2. Roop Sagar Devi Wife Of Shyam Narayan Singh Resident Of Village - Dhankaul, P.S. - Piprahi, District - Sitamarhi

.... Petitioner/s

Versus

1. The State Of Bihar
2. Santosh Kumar Son Of Deeplal Mahto Resident Of Village - Koratarni, P.S. - Parsauni, District - Sitamarhi

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Ritesh Kumar Narain Singh
For the Opposite Party/s : Mr. Sanjay Kr. Pandey, APP

=====

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

C.A.V. JUDGMENT

Date: 20-06-2017

Heard learned counsel for the parties.

Petitioners, by means of this application under section 482 of the Code of Criminal Procedure, have invoked the inherent jurisdiction of this Court with prayer to quash the order dated 18.05.2012, passed by Sri Anurag Kumar Tripathi, Judicial Magistrate, 1st Class, Sheohar (Sitamarhi) in Complaint Case No. 101 of 2012, whereby cognizance has been taken against the petitioners for the offences under section 308, 374 & 326 of the Indian Penal Code.

The contention of the learned counsel for the petitioners is that no offence against the petitioner is disclosed and



the present prosecution has been instituted with mala fide intention for the purposes of harassment. It is further submitted that on the very date of occurrence, Fardbeyan of Tetari Devi, mother of the complainant was recorded in which she did not complain against any body (Annexure-2). On enquiry on the aforesaid Fardbeyan, police submitted the final report stating there is no fault of anybody in the alleged occurrence (Annexure-3). On a complaint before the Janta Darbar of District Magistrate, Sitamarhi the matter was enquired by the Block Development Officer, Persauni and it was reported no body is responsible for the alleged occurrence and it was a case of accident (Annexure-4).

Learned counsel appearing for the State opposes the application by contending that there are allegations against the petitioner and no ground for quashing the entire proceedings is made out.

From perusal of the material on record and looking into the facts of the case at this stage, it cannot be said that no offence is made out against the petitioners. All the submissions made at bar relates to the disputes question of facts and defence, which cannot be adjudicated upon by this Court in exercise of power conferred under section 482 Cr. P.C. The aforesaid materials which have been brought before this Court as per Annexures- 2, 3 & 4 were not before



the Magistrate. Only a prima facie satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required. Moreover, the petitioners have got a right of discharge through a proper application for the said purpose and he is free to take all the submissions in the said discharge application before the trial Court. The prayer for quashing the order taking cognizance is refused.

The application accordingly stands dismissed.

(Arvind Srivastava, J)

Manish/-

AFR/NAFR	NAFR
CAV DATE	17.04.2017
Uploading Date	
Transmission Date	

