

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53196 of 2013

Arising Out of PS.Case No. -213 Year- 2011 Thana -MADHUBANI COMPLAINT CASE District-
MADHUBANI

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1. Jay Narayan Singh S/O Late Surya Narayan Singh Resident Of Village-
Auraha, P.S.- Laukahi, District- Madhubani

2. Brahm Narayan Singh @ Brahm Deo Narayan Singh S/O Late Surya
Narayan Singh Resident Of Village- Auraha, P.S.- Laukahi, District-
Madhubani

3. Upendra Mandal S/O Late Monchi Mandal Resident Of Village- Auraha,
P.S.- Laukahi, District- Madhubani

4. Bhikhari Mandal S/O Late Girgit Mandal Resident Of Village- Auraha,
P.S.- Laukahi, District- Madhubani

5. Chandrashekhar Singh @ Chandeshwar Singh S/O Deo Narayan Singh
Resident Of Village- Auraha, P.S.- Laukahi, District- Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar

2. Ranjeet @ Ram S/O Radheshyam Ram Resident Of Village- Auraha,
P.S.- Laukahi, District- Madhubani

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar

For the Opposite Party/s : Mr. Mustaq Alam (App)

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 31-01-2017 Heard the parties.

As the matter is old, as such to expedite the matter, the
same is being taken up and being disposed of at the stage of
admission itself.

The petitioner has preferred this application under
Section 482 of the Code of Criminal Procedure Code for quashing
order dated 30.8.2013 passed in T.R. No.2073 of 2013, by which
processes were issued against the petitioners in this case for an



offence under Sections 323/34, 504/34 of the Indian Penal Code.

The prosecution story in short is that Ranjit Ram filed a written report dated 19.3.2010 in the Harijan Police Station, Samastipur against the accused persons under Sections 147, 149, 448, 341, 342, 323, 364, 504, 354 IPC and Section 3(I) (X) (XI) of SC/St Prevention of Atrocities Act that in the night of 25.1.2010 at about 11.00 O'clock the accused persons entered into his house and assaulted the informant so also his other family members and took away her wife, Laxmi Kumari, on the basis of which S.C./S.T. (SPR) P.S.Case No.12/2010 G.R.No.447/2010 was instituted against the petitioners, however, after submission of the final form by the police not finding the case true, it appears that the learned Magistrate had proceeded on protest petition and after enquiry finding prima facie the case true, the Judicial Magistrate ordered for issuance of processes against these petitioners for offences under Sections 323/34, 504/34 of the Indian Penal Code.

The petitioners have challenged the aforesaid order issuing processes against the petitioners.

The main contention of the petitioners is that the police had submitted final form but the Judicial Magistrate has taken cognizance against the petitioners on the basis of protest petition and the second contention of the learned counsel for the



petitioners is that prior to that a case had been lodged by Brahmdeo Mandal against the informant of the present case, Ranjit Ram and others with respect to kidnapping of his daughter, Laxmi Kumari in the year, 2009 and the case is pending for investigation. Thereafter, the above Brahmdeo Mandal again lodged a case with respect to kidnapping of his daughter on 26.11.2009 against the father and mother and all other family members of the complainant as after some time they had again forcibly took the girl and the case is pending for investigation.

Further, the learned counsel for the petitioners has submitted that false and concocted case has been lodged by Opposite Party No.2 stating that the petitioners variably entered inside the house of the O.P.No.2 and assaulted wife of the complainant and took her away. It is further submitted that from the annexures, it will appear that wife of the informant is non-else but Laxmi Kumari and in respect of her kidnapping, Brahmdeo Mandal had lodged a case against Opp. Party No.2 and other family members of Opposite Party No.2 as such the present case has been lodged only with a view to save the skin from the earlier case lodged by the informant, as such the whole prosecution is absurd and can not be believed on the very face value of the case, hence, the order issuing processes against the



petitioner is bad in law and not sustainable in the eye of law.

Heard learned A.P.P. also, who has opposed the prayer of the petitioners stating that on the basis of protest petition, the learned Judicial Magistrate after submission of the final form, finding *prima facie* the case true against the petitioners proceeded for issuance of the processes against the petitioners and after enquiry has taken cognizance against the petitioners under Sections 323/34, 504/34 of the Indian Penal Code, as such there is no illegality in the order issuing processes against the petitioners.

Having heard both sides. After perusal of the record, it appear that earlier an F.I.R. was lodged by Opposite Party No.2 against the petitioners and which was found *prima facie* true by the police, as such the police submitted final form against the petitioners thereafter the learned court below, after submission of the final form by the police proceeded on the protest petition filed by the Opposite Party No.2 and after enquiry finding *prima facie* a case against the petitioners Sections 323/34, 504/34 of the Indian Penal Code ordered for issuance of processes against the petitioners, as such there is no illegality in the order issuing processes against the petitioners. So far the cases lodged by the father of the Laxmi Kumari is concerned, veracity of that can not be tested at this stage, as such I am not inclined to interfere with



the order issuing processes against the petitioners.

Hence, this application is dismissed.

(Vinod Kumar Sinha, J)

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