

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25579 of 2017

Arising Out of PS.Case No. -877 Year- 2016 Thana -BHAGALPUR COMPLAINT CASE District-
BHAGALPUR

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1. Dhiraj Kumar, Minor

2. Niraj Kumar, Minor

Both are S/o Late Dhruv Narayan Prasad, under their natural guardian Baby Devi,
W/o Late Dhruv Narayan Prasad, R/o Village- Jamgaon, P.S.- Jagdishpur, District-
Bhagalpur.

.... Petitioners

Versus

1. The State of Bihar.

2. Sanjiv Kumar, Son of Late Madho Lal Mandal, R/o Hussainabad, Jagdamba
Chowk, P.S.- Mojahidpur, District- Bhagalpur.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 19-07-2017

This application under Section 482 of the Code of
Criminal Procedure has been filed on behalf of the petitioners
seeking quashing of the order dated 27.10.2016 passed in
Complaint Case No.877 of 2016 by the learned Chief Judicial
Magistrate, Bhagalpur whereby he has summoned the petitioners
and others after taking cognizance of the offence punishable under



Sections 323, 354B, 379 and 504/149 of the Indian Penal Code.

2. It would be evident from perusal of the complaint and the order impugned passed by the learned Chief Judicial Magistrate that there is prima facie material to summon the petitioners in the complaint case.

3. A plea has been taken by the petitioners that they have been implicated in a false case, which has been instituted with ulterior motive. It has also been pleaded that the petitioners are juvenile and their implication in the case is only because of ongoing land dispute between the family members of the complainant and the accused. In support of the claim of juvenility of the petitioners, certain documents have also been annexed to the present application.

4. Having regard to the fact that there are prima facie materials to summon the petitioners, no illegality can be found with the impugned order. So far as the claim of juvenility of the petitioners is concerned, the proper forum for determination of such claim is Juvenile Justice Board. This Court in exercise of Section 482 of the Code of Criminal Procedure, cannot examine such claim at this stage. The petitioner would be at liberty to raise such claim before the learned Chief Judicial Magistrate and if he finds substance in the claim of the petitioners, he shall be obliged to refer



the matter to the Juvenile Justice Board for determination of the claim of the petitioners in accordance with law.

5. With the aforesaid observations and direction the instant application is disposed of.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.07.2017
Transmission Date	21.07.2017

