

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25344 of 2014

Arising Out of PS.Case No. -87 Year- 2013 Thana -MADHEPURA District- MADHUBANI

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1. Bipin Nayak Son of Late Satya Narayan Nayak
2. Pawan Nayak Son of Late Satya Narayan Nayak
3. Bharat Nayak Son of Late Satya Narayan Nayak
all Resident of Village - Madhepur, P.S.- Madhepur, District - Madhubani

.... Petitioner/s

Versus

1. The State of Bihar
3. Kalawati Devi Wife of Sri Bulbul Paswan Resident of Sangat Chowk, Madhepur,
P.S.- Madhepur, District - Madhubani

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Yogendra Kumar
Mr. R.N. Ray
Dr. M.K. Gautam

For the Opposite Party/s : Mr. Sadanand Paswan, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 23-06-2017

1. The petitioners seek quashing of the order dated 05.04.2014 passed in G.R. No. 628 of 2013 (arising out of Madhepur P.S. Case No. 87 of 2013) by the learned A.C.J.M. Jhanjharpur, whereby and whereunder cognizance for the offence under Sections 341, 323, 342, 504/34 of the Indian Penal Code and Section 3(x) SC/ST (Prevention of Atrocities) Act 1989 was taken against the petitioners.

2. The facts, in brief, is that the informant (Kalabati Devi) lodged an information with Madhepur P.S. alleging *inter alia* that on 23.05.2013 at about 9:15 P.M., all the accused persons caught her son



and locked him in the go-down with intention to commit his murder. She belongs to SC/ST community and the accuseds made her son traceless. The matter was investigated and the police submitted charge-sheet against the petitioners under the aforesaid sections. The learned Magistrate after perusing the case diary and materials on records, found *prima facie* case for the offence under Sections 341, 323, 342, 504/34 of the I.P.C. and ordered for issuance of summons against them.

3. The learned counsel for the petitioners submits that from the allegation made in the written report, no offence under any of the provisions of the Act is constituted. The informant has lodged the case in order to counter the Madhepur P.S. Case No. 86 of 2013 which was lodged by the cousin brother of the petitioners namely, Raju Nayak against the son of the informant. The son of the informant is a terror of the locality and he and other miscreants on the date of occurrence had visited their shop and on the point of pistol they asked the shop-keepers to close their shop. The petitioners with the help of local people apprehended the son of the informant and confined in their shop and after arrival of police, he was handed over to custody on the same evening. The informant suppressing of this fact, has lodged the case with false and frivolous allegation. The petitioners neither abused the informant nor used criminal force either



against the informant or her son and so order taking cognizance against the petitioners is fit to be quashed.

4. Learned APP, on the other hand, opposed the submissions by submitting that the informant's son belongs to SC/ST community and the acts of these petitioners squarely covered by Section 3(X) SC/ST (Prevention of Atrocities) Act 1989.

5. On perusal of the records, I find that the informant in a specific word has stated that these petitioners caused atrocity, assaulted and made her son traceless. The matter was investigated by the police and the police finding materials against the petitioners submitted charge-sheet under the aforesaid Sections. The defence of the petitioners cannot be seen at the stage of taking cognizance of offence.

6. In view of the discussions made above, I am of the view that the petitioners have failed to make out a case of quashing the order of cognizance. Accordingly, the Cr. Misc. petition is dismissed.

(Sanjay Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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