

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18425 of 2014

Arising Out of PS.Case No. -70 Year- 2012 Thana -MAHILA PS District- DARBHANGA

- =====
1. Baiju Mahto Son of Siya Sharan Mahto
 2. Uday Yadav Son of Kalewar Yadav
 3. Nirmal Mahto Son of Yog Narayan Mahto
 4. Mahadeo Mahto Son of Inder Mahto
 5. Hare Ram Mahto Son of Ram Tahal Mahto

All residents of village Belhi, P.S. Baheri, District Darbhanga.

.... Petitioners

Versus

1. The State of Bihar
2. Bulanti Kumari D/o Late Nathuni Ram Resident of Village Belhi, P.S. Baheri, District Darbhanga.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Shambhu Nath Jha

For the Opposite Party/s : Mr. Ambika Bhagat(Spl.Pp)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

6 03-07-2017 Heard learned counsel for the petitioners and the learned
APP for the State.

The petitioners challenge the order taking cognizance dated 29.10.2012, passed by learned Chief Judicial Magistrate, Darbhanga in Mahila P.S. Case No.70 of 2012 whereby cognizance has been taken of the offence under Sections 323, 354 and 34 of the Indian Penal Code also in addition to that under Sections 3(x) and (xi) of the SC/ST Act.

Learned counsel for the petitioners submits that the informant was in love relationship with another boy of the village and a *Panchayati* was held wherein the petitioners were *Panches*, therefore, this false case was lodged though the informant is now married with



that body and living together.

The allegation in brief in the First Information Report against the petitioners is that while informant was going to attend the call of nature in the night, the accused persons lifted her, took her to nearby orchard and when she raised alarm thereafter her mother reached there but in the meanwhile the accused persons removing her clothes made an attempt of rape. It is also alleged that when her mother protested then they assaulted the informant and her mother with stick.

The police after completing the investigation submitted charge sheet against the petitioners finding the case true under Sections 323, 354 and 34 of the Indian Penal Code as well as Sections 3(x) and (xi) of the SC/ST Act.

The ground raised by the learned counsel for the petitioners showing falsity of the case cannot be appreciated at this stage since there is specific allegation and during investigation, evidence has been collected by the police against the petitioners so the prayer to set aside the order taking cognizance dated 29.10.2012, passed by learned Chief Judicial Magistrate, Darbhanga in Mahila P.S. Case No.70 of 2012 is dismissed.

Accordingly, this quashing petition stands dismissed.

(Arun Kumar, J.)

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