

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19693 of 2014

Arising Out of P.S.Case No. -82 Year- 2012 Thana -BANGAON District- SAHARSA

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Pratap Narayan Thakur Son of Late Mahavir Thakur Resident of Village -
Chainpur, P.S.- Bangaon, District - Saharsa

.... Petitioner

Versus

1. The State of Bihar
2. Hare Krishna Thakur Son of Late Vedanand Thakur
3. Jai Krishna Thakur Son of Late Vedanand Thakur
4. Grijesh Kunwar @ Pandit Son of Ramjee Kunwar All Resident of
Village - Chainpur, P.S.- Bangaon, District -Saharsa

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Ashok Kumar Mishra, Advocate
For the Opposite Parties : Mr. Arun Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

3 03-07-2017 Heard.

2. The petitioner seeks quashing of order dated 13.02.2014 passed by learned Additional Sessions Judge, (Adhoc-III) Saharsa in Cr.Revision No.212 of 2013 and order dated 06.07.2013 passed by CJM, Saharsa in Bangaon P.S.Case No.82 of 2012. The learned Magistrate as per order dated 06.07.2013 took cognizance of offence under Section 341, 323, 504, 506/34 of the IPC against the petitioner and other co-accused persons and ordered for issuance of summons for their appearance to face the trial. The said order was challenged by filing Cr.Revision No.212 of 2013 which was also dismissed.



3. The facts in brief is that a police case vide Bangaon P.S.Case No.82 of 2012 was registered for the offence under Section 307, 385, 379 and other sections of the IPC on the basis of fardbeyan of this petitioner. The matter was investigated and police submitted chargesheet for the offence under Section 341, 323, 504 and 506/34 of the IPC. The court below accordingly took cognizance of offence.

4. The learned counsel for the petitioner submits that the court below has not considered the gravity of the offence. The case was registered for the offence under Section 385, 307 and 379 of the IPC and at the time of enquiry, the informant and witnesses had also supported the allegation of assault by the accused persons with intention to commit murder. The offence committed by the accused persons are squarely covered under Section 307 of the IPC against the accused persons. The impugned order taking cognizance under such circumstance is fit to be quashed and matter be remitted for passing fresh order by the court below. The learned APP opposed the submission.

5. On perusal of record, I find that the case was registered on the fardbeyan of the informant wherein it has been alleged that on 15.10.2012 the accused persons threw one Satish Chandra on the ground and encircled *Gamachha* around his neck



and started twisting. It has been further alleged that they pointed revolver and threatened to shoot him if he raised voice. They assaulted by fist and slaps. They also snatched an amount of Rs.5,000/- from his possession. The matter was investigated by the police and chargesheet was submitted under section 340, 323, 504 and 379 of the IPC. The learned Magistrate after perusing the case diary took cognizance against the accuseds under the aforesaid sections. The order passed by the court below is based on material on record. The learned Sessions Judge also considered the materials on record and dismissed the revision filed against the order of cognizance. As such, I do not find any merit in the submission of learned counsel for the petitioner. The petitioner will have opportunity to raise all the grievances before the court below if materials come on record at the time of trial.

6. This application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

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