

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.35389 of 2014

Arising Out of P.S.Case No.345 Year- 2013 Thana -LAHERIASARAI District- DARBHANGA

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1. Irfana Khatoon Wife of Ali Mohammad
 2. Ali Mohammad Son of Late Sidhique
 3. Razi Ahmad Son of Ali Mohammad All Resident of Mohalla- Chak Rahmat Bhigo, P.S.- Laheria Sarai, District- Darbhanga

.... Petitioners

Versus

1. The State of Bihar
2. Noor Mohammad Son of Late Sidhique Resident of mohalla- Chak Rahmat Bhigo, P.S.- Laheria Sarai, District- Darbhanga

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Md. Naseem Mukhtar, Advocate
For the Opposite Partis : Mr. Humayu Ahmad Khan, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 07-08-2017

This application under section 482 of the Cr.P.C. has been filed to quash the order dated 30.09.2013 passed by learned CJM, Darbhanga in Laheria Sarai P.S.Case No.345 of 2013 whereunder the learned CJM finding prima-facie case for the offence under Sections 341, 323, 324 and 504/34 of the IPC took cognizance and summoned the petitioners.

2. The above P.S.Case No.345 of 2013 was registered on the written report of Noor Mohammad. It has alleged that on 08.08.2013 while he was going to meet call of the nature, these petitioners intercepted and assaulted by means of lathi, danda and when the wife



of the informant came for his rescue she was also assaulted by the petitioners. He and his wife were treated at DMCH.

3. Heard and perused the record.

4. Learned counsel for the petitioners submits that no specific reason has been assigned for the alleged occurrence of assault. The informant and petitioners are full brothers and the informant in order to deprive the petitioners from their property has lodged the case. Prior to this case, he had lodged criminal case also on earlier occasion. The cognizance order passed against the petitioners in C.R.No.194 of 2009 has been quashed by this Hon'ble Court in Cr.Misc.No.36143 of 2009. The petitioners reside at Mumbai and on the date of occurrence they were not at their village home. The petitioner no.2 was admitted in hospital at Bhiwandi, Maharashtra. The learned Magistrate has passed the impugned order in mechanical manner without their being any material against them and so the impugned order is fit to be quashed.

5. The learned APP for the State opposed the submissions.

6. On perusal of materials on record, I find that all the petitioners are named in the FIR with specific allegation that on the date of occurrence they all intercepted the informant and assaulted him by fist and slaps. The wife of informant came for his rescue and she was also assaulted by these petitioners. The matter was



investigated and police submitted chargesheet against all the petitioners. The learned Magistrate rightly took cognizance of offence and summoned the petitioners.

7. In view of the above facts, I find that there is no illegality in the impugned order. This application is devoid of merit and is dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
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