

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.26156 of 2014

Arising Out of PS. Case No.-649 Year-2013 Thana- MADHEPURA COMPALINT CASE
District- Madhepura

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1. Md. Sadik Son of Late Sagir Mian
 2. Md. Ilyas Son of Late Sagir Mian Both are Residents of Village-
Phulkaha, P.S. Jadia, District-Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Palat Rishideo Son of Late Gorbhu Rishideo Resident of Bishanpur Bazar,
P.S.-Kumarkhand, District-Madhepura.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dinesh Prasad Verma, Adv
For the Opposite Party/s : Mr. M.K.KHARE (APP)

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 16-08-2017

Heard learned counsel for the parties.

The present quashing application under Section 482 of the Cr.P.C has been filed for quashing the order dated 08.05.2014, passed by the learned Judicial Magistrate, 1st Class, Madhepura, in Complaint Case No. 649C of 2013 taking cognizance against the petitioners for the offence punishable under Sections 341, 323, 504, 406/34 of the Indian Penal Code and Section 3(i)(x) of the Scheduled Castes and Scheduled



Tribes (Prevention of Atrocities) Act, 1989.

Briefly stated, the facts of the case is that a written complaint was filed by complainant-Palat Rishideo before the Chief Judicial Magistrate on 11.06.2013 inter alia stating therein that he worked as a labourer in the house of Md. Ilyas and he was paid Rs. 800/- and rest Rs. 1000/- was to be paid subsequently. It has been further stated in the complaint petition that on 10.06.2013, when he reached Fakira tea stall and demanded Rs. 1000/- from accused no. 2 Md. Iliyas, on such demand Md. Iliyas abused him by filthy words and by his caste name and also assaulted. It has been stated in the complaint petition that accused no. 3 Md. Meraj, took Rs. 300/- from his pocket and accused no. 4 took stamp on the plain paper.

On the basis of complaint, a case was registered before the Chief Judicial Magistrate, Madhepura vide complaint Case No. 649C of 2013 for the offences punishable under Sections 147, 341, 323, 379, 504, 384, 406 and 506 of the Indian Penal Code and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989. The complainant was examined on S.A. on 17.07.2013 and in support of his complaint case three witnesses were examined. On the basis of complaint case, deposition of witnesses



examined on behalf of the complainant, learned Chief Judicial Magistrate, Madhepura took cognizance under Sections 314, 323, 504, 406/34 of the Indian Penal Code and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989 and directed to issue summons to the accused persons to face the trial. Learned counsel for the petitioner has submitted that prior to filing of present complaint case the Petitioner No. 2. had filed a case against the Opposite party in the court of Sub Divisional Magistrate, Triveniganj, Supaul, to initiate proceeding under Section 107 of the Code of Criminal Procedure, against the complainant-Opposite Party No. 2 and the petitioner has also filed a petition before the District Magistrate, Supaul and Circle Officer on 13.05.2013 against the complainant-Opposite Party No. 2 for creating nuisance. On the direction of the District Magistrate, Supaul, Officer-in-charge Jadia Police Station inquired the matter and submitted report to the Circle Officer, Triveniganj. The Officer-in-Charge of the Jadia Police Station also recommended for initiation of proceeding under Section 116(iii) of the Code of Criminal Procedure against the Opposite Parties. Witnesses have been examined on behalf of the prosecution in a proceeding under Section 107 of the Code of Criminal



Procedure before the competent court, and the present case is malicious and needs to be quashed.

On the basis of the complaint case and materials available on record, deposition of witnesses examined on behalf of the complainant, S.A. of the complainant, the court below found prima facie case against the petitioners and took cognizance of the offence under Sections 314, 323, 504, 406/34 of the Indian Penal Code and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989, and the court below has found sufficient material against accused nos. 1 to 3 to proceed in the matter and issued summons for their appearance, however, the court has not found sufficient material against rest of the accused of the complainant's case and as such has not issued any summons for their appearance.

At the stage of taking cognizance duty of court is only to see if any offence is made out or not. Any defence to be taken by the petitioners is to be raised only at subsequent stage and is not to be raised in the initial stage of prosecution. When the Magistrate has taken cognizance of an offence, the power of High Court to interfere is only to a limited extent. The High Court cannot substitute its view for summoning order passed by



trial court. While exercising inherent jurisdiction under Section 482 of the Cr.P.C, High Court cannot appreciate the evidence and its truthfulness or sufficiency as it is the function of the trial court.

After hearing the parties and going through the order dated 08.05.2014 passed by the court below taking cognizance against the petitioners for the offences punishable under Sections 314, 323, 504, 406/34 of the Indian Penal Code and and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989, the order passed by court below taking cognizance against the petitioner does not require any interference by this Court at this stage.

Petitioners have liberty to raise all the grounds raised in the petition and all other grounds available under law at the time of framing of charge.

The petition stands dismissed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	22.08.2017
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