

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.14458 of 2014

Arising Out of PS.Case No. -3860 Year- 2008 Thana -KATIHAR COMPLAINT CASE District-
KATIHAR

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1. Sakaldep Mandal
2. Gurucharan Mandal
3. Indradev Mandal All Sons Of Late Mant Lal Mandal
4. Most Sagri Wife Of Late Mant Lal Mandal
5. Nayan Mandal
6. Rajnesh Kumar Mandal Both Sons Of Sakaldep Mandal All Resident Of Village
Dhurahi Margaha, Police Station Manihari, District- Katihar.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Suresh Mandal Son Of Late Sarban Mandal Resident Of Village- Karikosi
Bandh, Dilarpur, Police Station- Manihari, District- Katihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar Mishra

For the Opposite Party/s : Mr. Dasrath Mehta, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

Date: 21-08-2017

Heard both the parties.

Petitioners, by means of this application under section
482 of the Cr. P.C., have invoked the inherent jurisdiction of this
Court with prayer to quash the order dated 18.09.2009 passed by
Judicial Magistrate, 1st Class, Katihar in Complaint Case No. 3860 of
2008, whereby cognizance has been taken against the petitioners for
the offences under section 403, 323 504 and 465 of the I.P.C.

The contention of learned counsel for the petitioners is
that no offence against the petitioners is disclosed and the present



prosecution has been instituted with *mala fide* intention for the purposes of harassment.

Learned counsel appearing for the State opposes the application by contending that there are allegations against the petitioners and no ground for quashing the entire proceedings is made out.

From perusal of the materials available on record and looking into the facts of the case, at this stage, it cannot be said that no offence is made out against the petitioners. All the submissions made at bar relates to the disputed questions of facts, which cannot be adjudicated upon by this Court in exercise of power conferred under section 482 Cr. P.C. Only a *prima facie* satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required. At this stage only *prima facie* case is to be seen in the light of the law laid down by the Supreme Court in cases of ***R.P. Kapur Vrs. State of Punjab, A.I.R. 1960 SC 866, State of Haryana Vrs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vrs. P.P. Sharma, 1992 SCC (Cr.) 192, Zandu Pharmaceutical Works Ltd. Vrs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283 and recently in A.R.C.I. Vrs. Nimra Cerglass Technics (P) Ltd. (2016) 1 SCC 348.*** The submissions made by the learned counsel for the petitioners call for adjudication on pure questions of fact which may be adequately



gone into by the Trial Court in this case. This Court does not deem it proper, and therefore, cannot be persuaded to have a pre-trial before the actual trial begins. The disputed defence of the accused cannot be considered at this stage. The prayer for quashing the order taking cognizance is refused.

The application, accordingly, stands dismissed.

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
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