

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41377 of 2014

Arising Out of PS.Case No. -936 Year- 2013 Thana -BUXAR COMPLAINT CASE District- BUXAR

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1. Kamta Prasad Tato @ Kamta Prasad Son of Late Laxmi Narayan Prasad Tato
 2. Ramesh Prasad Son of Kamta Prasad
 3. Ashok Prasad Son of Kamta Prasad
 4. Bheem Prasad Son of Kamta Prasad
 5. Jhoona Prasad Son of Kamta Prasad
 6. Raju Prasad @ Raju Kumar Son of Ramesh Prasad
 7. Kaju Prasad @ Kaju Kumar Son of Ramesh Prasad
 8. Ravi Prasad @ Ravi Kumar Son of Ashok Prasad
 9. Keshava @ Keshava Kumar Son of Ashok Prasad
 10. Dharamshila Devi Wife of Ramesh Prasad
 11. Usha Devi @ Rita Devi Wife of Ashok Prasad All are resident of Nai Bazar, Ward No. 4, P.S. Buxar Town, District Buxar

.... Petitioners

Versus

1. The State of Bihar
2. Urmila Devi Wife of Balram Prasad R/o Nai Bazar, Ward No 4, P.S. Buxar Town, District Buxar

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Devi Das Srivastava, Advocate

For the Opposite Party/s : Mr. Sucheta Yadav, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 09-10-2017

Heard learned counsel for the petitioners and
learned Additional Public Prosecutor for the State.

The petitioners, in the present case, are seeking
quashing of the order dated 31.01.2014 passed by learned
Judicial Magistrate, 1st Class, Buxar, in Complaint Case No.



936(C)/2013/Tr. No. 2038/2014, by which learned Magistrate took cognizance against the petitioners for the offences under Sections 323 and 380 of the Indian Penal Code and petitioners have been summoned.

Learned counsel for the petitioners submits that it is a case of false prosecution because of some land dispute between the petitioners and family members of Opposite Party No. 2. He submits that the order taking cognizance is passed in a routine and mechanical manner. Although, the petitioners have challenged the order taking cognizance but the deposition of the witnesses who have been examined under Section 202 of the Cr.P.C. have not been brought on record for perusal by this court. Neither the statement of the complainant on solemn affirmation nor the statement of the inquiry witnesses are on record which were the basis for taking cognizance by the learned Judicial Magistrate, 1st Class, Buxar. This being the position, this court is unable to examine the impugned order in absence of the materials. This court is not willing to interfere with the impugned order. The petitioners may, if so advised, raise all such pleas which are available to them in the court below at the time of



framing of charge. The court below shall consider all such pleas which are taken by the petitioners at the time of framing of charge.

The order taking cognizance is not interfered with. This application is disposed of with the aforesaid observation.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.10.2017
Transmission Date	10.10.2017

