

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35805 of 2015

Arising Out of PS.Case No. -25 Year- 2014 Thana -BARURAJ District- MUZAFFARPUR

- =====
1. Rajdeo Sah, Son of Mahadeo Sah,
 2. Rita Devi, wife of Rajdeo Sah,
 3. Santosh Kumar @ Santosh Sah,
- All are Resident of Village- Kathauliya, P.S.- Baruraj, District- Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Rubi Kumari, D/O Jaigobind Sah, Resident of village- Kathauliya, P.S.- Baruraj, District- Muzaffarpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Devendra Kumar, Advocate
For the State : Mr. Ajit Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 08-05-2017 Heard learned counsel for the petitioners and learned
APP for the State.

The present application has been filed for quashing of the order dated 15.10.2014, passed by the learned Judicial Magistrate, 1st Class, Muzaffarpur, in connection with Baruraj P.S. Case No.25 of 2014, G.R. No. 397/2014, T.R. No.4188 of 2015, whereby the process has been directed to be issued against the petitioners after cognizance being taken for the offences punishable under sections 448, 341, 323, 504 and 379/34 of the Indian Penal Code.

The prosecution case, as per the fardbeyan of Rubi



Kumari, recorded by Officer-in-charge of Baruraj Police Station that on 15.01.2014 at 16.00 hours the accused persons including the petitioners entered into the house of the informant, abused her and assaulted on the head and chest of the informant with iron rod and bricks. The accused persons also assaulted the mother of the informant and snatched her earring and gold chain. The assault was made with a motive to grab the land of the father of the informant, since he does not have any male issue. On conclusion of investigation, the final form (charge-sheet) was submitted under sections 448, 341, 323, 504 and 379/34 of the Indian Penal Code. The learned Judicial Magistrate, 1st Class, Muzaffarpur, after perusing the case diary/charge-sheet, found the *prima facie* case. Hence, vide order dated 15.10.2014, learned Judicial Magistrate, 1st Class, Muzaffarpur, directed for issuance of process after cognizance being taken for the offences under sections 448, 341, 323, 504 and 379/34 of the I.P.C. The said order is under challenge before this Court.

In view of this Court, at the stage of exercising jurisdiction under Section 190(1)(b) Cr.P.C. the court has only to see whether a *prima facie* case is made out or not. This is not the case of the petitioner that the learned Magistrate has not applied his judicial mind while passing of the impugned order. The impugned order



suggests that the learned Magistrate passed the impugned order after perusing, the F.I.R., case diary and charge-sheet. Moreover, the impugned order has been passed on 15.10.2014 but there is nothing on record to suggest the present stage of the case.

Hence, the present application is disposed of with a liberty to the petitioner to raise all the contentions at the appropriate stage of proceeding.

(Dinesh Kumar Singh, J)

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