

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17472 of 2014

Arising Out of PS.Case No. -24 Year- 2012 Thana -MANIHARI District- MUZAFFARPUR

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1. Bedami Devi, wife of Baidyanath Singh,
 2. Sulekha Kumari, daughter of Baidyanath Singh,
 3. Monu Kumar, son of Ram Narayan Singh, all r/o village- Muraul, P.S. - Maniyari, District - Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Prem Shankar Singh, son of Mohan Singh, r/o village - Muraul, P.S. - Maniyari, District - Muzaffarpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Alok, Advocate
For the Opposite Party/s : Mr. T. N. Thakur, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 11-09-2017

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 22.04.2013 passed by the Judicial Magistrate, 1st class, Muzaffarpur, in Maniyari P.S. Case No.24 of 2012 by which the Court below has taken cognizance against the petitioners and other accused for the offence under Section(s) 447, 341, 323, 504, 325/34 Indian Penal Code.

It has been submitted that there is no material against the petitioners in the case diary. They have been implicated in this case due to previous enmity. The police after investigation submitted Final Form against these petitioners showing them



innocent and charge-sheet was submitted against other accused on 29.12.2012, but the learned Magistrate by the impugned order took cognizance against these petitioners also along with other accused persons.

It has been submitted that Opposite Party No.2 (Informant) assaulted co-accused, namely, Rajesh Singh son of Baidyanath Singh, at his house for which a complaint case bearing Complaint Case No.264 of 2012 was filed by the co-accused against the informant and others. From the allegation in the written report, it appears that there is no allegation of specific overt act against these petitioners. Final Form submitted by the police has been annexed as Anneuxre-2, which shows that the police has submitted charge-sheet against other accused persons showing the petitioners as innocent, but the Court below after looking into the case diary has taken cognizance against the petitioners and other accused persons for offence under Section(s) 447, 341, 323, 504, 325/34 Indian Penal Code by the impugned order.

This Court on perusal of the impugned order finds that the learned Magistrate has not discussed any material which he found in the case diary to take cognizance against the petitioners.

Accordingly, the impugned order dated 22.04.2013 passed by the Judicial Magistrate, 1st class, Muzaffarpur, in



Maniyari P.S. Case No.24 of 2012 taking cognizance against the petitioners and other accused for the offence under Section(s) 447, 341, 323, 504, 325/34 Indian Penal Code along with entire criminal proceeding in so far as it relates to the petitioners is hereby quashed.

This application is, accordingly, allowed.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
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