

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6581 of 2016

Arising Out of PS.Case No. -15384 Year- 2014 Thana -BEGUSARAI COMPLAINT CSAE District-
BEGUSARAI

- =====
1. Saroj Devi Wife of Late Hare Ram Singh,
 2. Amit Kumar, Son of Late Hare Ram Singh,
 3. Ankit Kumar, Wife of Late Hare Ram Singh, All residents of village -
Panchmahala, Manjhaul, Panchayat No. 2, P.S. - Cheriya Bariyarpur,
District - Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ramasish Prasad Singh, Son of Ram Sevak Singh, Resident of Village
- Satyara Chowk, Manjhaul, P.S. - Cheriya Bariyarpur, District -
Begusarai.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sandip Kumar Gautam

For the Opposite Party/s : Mr. Hirday Prasad Singh (App)

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**
ORAL ORDER

02/ 11-04-2017

Heard learned counsel for the petitioners and

Mr. J.N. Thakur for the State.

The present application has been filed for quashing the order dated 09.09.2015 passed by learned Chief Judicial Magistrate, Begusarai in Complaint Case No.15384C of 2014 whereby processes have been directed to be issued after cognizance being taken for the offences punishable under Sections 323 and 504 of the Indian Penal Code.

At the stage of passing order under Section 190(1)(a) Cr.P.C. the learned Magistrate has only to see the prima



facie case for the purpose of taking cognizance, as has been held in the case of Sonu Gupta Vs. Deepak Gupta & Ors., 2015(2) PLJR (SC) 321. Paragraph no. 7 reads as:-

“Having considered the details of allegations made in the complaint petition, the statement of the complainant on solemn affirmation as well as materials on which the appellant placed reliance which were called for by the learned Magistrate, the learned Magistrate, in our considered opinion, committed no error in summoning the accused persons. At the stage of cognizance and summoning the Magistrate is required to apply his judicial mind only with a view to take cognizance of the offence, or, in other words, to find out whether prima facie case has been made out for summoning the accused persons. At this stage, the learned Magistrate is not required to consider the defence version or materials or arguments nor he is required to evaluate the merits of the materials or evidence of the complainant, because the Magistrate must not undertake the exercise to find out at this stage whether the materials will lead to conviction or not.”

Moreover, the impugned order was passed on 09.09.2015 but there is nothing on record to suggest the present stage of the case.

Hence, this application is disposed of with



liberty to the petitioner to raise all the contentions at the appropriate stage of proceeding.

(Dinesh Kumar Singh, J)

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