

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32346 of 2013

Arising Out of Complaint Case No. -811 Year- 2010 Thana -ROHTAS COMPLAINT CASE

District- SASARAM (ROHTAS)

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1. Sabitri Devi, Wife Of Birendra Prasad Gupta
 2. Birendra Prasad Gupta, Son Of Late Godhan Sah,
- Both R/O Village-Barwakala, P.S. Akodigola, Distt-Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar
2. Dharmendra Prasad Gupta, Son Of Sri Krishna Nand Prasad, R/O Village-Barwakala, P.S.-Akodi Gola, Distt-Rohtas

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Tiwary, Advocate.

For the Opposite Party/s : Dr. Rabindra Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 02-02-2017

Heard learned counsel for the Petitioners and the State.

2. The Petitioners seek quashing of the order dated 26.8.2011 passed in Complaint Case No. 811 of 2010 by which cognizance has been taken by the Judicial Magistrate, 1st Class, Sasaram, on a protest-cum-complaint petition.

3. It has been submitted by the counsel for the petitioners that the instant case has been filed out of political rivalry. The police after investigation submitted Final Form in the case. It has further been submitted that during investigation of the case by the police it has come in the case diary that the petitioner has already completed satisfactory work.



4. The learned A.P.P. has stated that the learned Magistrate is not required to see the defence of the accused at the time of enquiry. The petitioner may take all the points at the time of framing of charge.

5. Having heard the parties and from perusal of the impugned order, this Court finds that on the basis of protest-cum-complaint petition, the learned Magistrate after examining the complainant on Solemn Affirmation and recording statement of three witnesses during enquiry, found prima facie case against the petitioners for the offence under Sections 406, 420, 323 and 504 of the Indian Penal Code.

6. It is settled principle of law that the court below is only required to see the prima facie case at the time of taking cognizance. The defence of the accused is not required to be looked into by the court at the time of holding enquiry under Section 202 Cr. P.C.

7. Considering the aforesaid facts, this Court is not inclined to interfere in the matter.

8. The application stands dismissed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	NA
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