

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38400 of 2014

Arising Out of PS.Case No. -212 Year- 2011 Thana -BRAHMPUR District- BUXAR

- =====
1. Shivji Sah
 2. Lal Babu Sah Both Sons of Harbans Sah Resident of Village - Chougai, Police Station - Murar, District- Buxar.

.... Petitioners

Versus

1. The State of Bihar.
2. Mostt. Shobha Devi Wife of Late Bipin Kharwar, Resident of Village - Chhatanwar, Police Station - Krishna Barham, District- Buxar. Presently Resident At Village - Bhahaura, P.S. Bhahaura District - Gazipur (UP).

.... Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Anil Kumar Roy, Advocate
For the State	:	Mr. J. Upadhyay, APP
For O.P. No.2	:	Mr. Bachan Jee Ojha, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 06-11-2017

Heard learned counsel for the parties.

2. Learned counsel for the petitioners seeks quashing of the cognizance order dated 20.02.2014, passed by learned Chief Judicial Magistrate, Buxar in Brahmpur (Krishna Braham) P.S. Case No.212 of 2011 thereby taking cognizance of the offence under Sections 302/34 of the Indian Penal Code.

3. A brief fact giving rise to the case is that the complainant, wife of the deceased, filed a complaint case that an information on mobile regarding the assault committed to her husband was given to her while she was at her parents' home. She returned back immediately and found that her husband was being treated by a doctor. Her husband disclosed to her the incidence of the assault and disclosed names of all accused persons participated in badly assaulting him so the names of six



persons find place in the FIR including these two petitioners. However, police after completion of investigation submitted charge-sheet against all accused persons named in the FIR except these two petitioners. However, the learned Chief Judicial Magistrate, Buxar has taken cognizance of the offence and issued summons to all accused persons including the petitioners.

4. Learned counsel for the petitioners submits that the informant is not the eye witness and police did not find evidence against the petitioners. Contrary to that the learned counsel appearing on behalf of opposite party no.2, the informant, submits that the entire allegation was disclosed by the deceased himself to his wife, the informant of the case, who has named these two petitioners also participating in the occurrence along with other accused persons. However, the police has not sent up the petitioners though there is evidence against them.

5. Having considered the rival submissions of both sides and on perusal of the records, the Court finds that there is no ground for interference with the cognizance order, so this application stands dismissed. However, the petitioner may raise the grounds taken in the application at the time of framing of the charge.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
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