

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.38274 of 2013**

Arising Out of PS.Case No. -196 Year- 2011 Thana -GHANSHYAMPUR District- DARBHANGA

1. Mahakant Thakur

2. Lal Thakur

Both son of Late Kapileshwar Thakur Residents Of Village - Pali, P.S. - Ghanshyampur, District - Darbhanga

.... .... Petitioners

Versus

1. The State Of Bihar

2. Jag Narayan Thakur, S/O - Late Mangal Thakur, Resident Of Village - Pali, P.S. - Ghanshyampur, District - Darbhanga

.... .... Opposite Parties

**Appearance :**

For the Petitioner/s : Mr. Gajendra Kumar Jha

For the Opposite Party/s : Mr. Shyam Bihari Singh(App)

**CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR**  
**ORAL ORDER**

5      25-01-2017

Heard both the parties.

The petitioners have filed this application under Section 482 Cr. P.C. for quashing the order dated 29.07.2013 passed by the District & Sessions Judge, Darbhanga in Criminal Revision No. 230 of 2013 whereunder the Sessions Judge declined to set aside the order dated 11.10.2012 wherein S.D.J.M., Biraul at Benipur took cognizance of offence against the petitioners for the offences under Sections 341, 323, 324 and 504/34 in Ghanshyampur P.S. Case No. 196 of 2011.

The aforesaid case was registered on the basis of fardbeyan of O.P. No. 2 wherein it has been alleged that on



22.11.2011 at about 23.45, both the petitioners armed with lathi and rod came at his house and started abusing him and on protest, they started assaulting him and his family members, who came for his rescue. The cause behind occurrence has been alleged to be land dispute for which a title suit was also pending.

Learned counsel for the petitioners submitted that it was the informant and his family members, who committed overt act. They came at the house of the petitioners and brutally assaulted the petitioners by means of lathi, Danda and Farsa and committed murder of Asho Devi, the wife of petitioner No. 1 for which Ghanshyampur P.S. Case No. 195 of 2011 was registered against the informant of the present case. The informant in order to save his skin and create defence has lodged this case with false and frivolous allegation. The learned S.D.J.M without considering the material in case diary passed the impugned order in mechanical manner. The petitioners filed revision petition against the said cognizance order which was also dismissed. The impugned order taking the cognizance against the petitioners and the order of sessions judge refusing to set the aside the cognizance order are not sustainable in the eyes of law and are fit to be quashed.



The learned APP for the State, on the other hand, opposed the submission and submitted that the learned C.J.M. on the basis of material on record rightly took cognizance and there is no illegality in the impugned order.

On perusal of cognizance order, I find that the learned C.J.M. after going through the case diary took cognizance of offence under Sections 341, 323, 324 and 504/34 I.P.C. The order taking cognizance is very cryptic as it does not contain the details of material available on record. However, on perusal of order of the sessions judge passed in Criminal Revision No. 230 of 2013, I find that the learned sessions judge after perusing the statement of witnesses recorded at paras 10, 11, 12 and 13 of the case diary observed that they had supported the prosecution case on the point of assault. It further appears that the informant of present case was examined by Doctor who found lacerated wound on left side parietal region measuring 2 1/2" x 1/4" x 1/4" caused by hard and blunt substance. The other injured, namely, Satya Narayan Thakur, Santosh Thakur, Jitni Devi and Pavitri Devi were also examined by the Doctor.

Keeping in view of the fact that there were sufficient materials on record to proceed with the case, the



Court is of the opinion that the learned S.D.J.M. has rightly taken cognizance of offence.

As such I do not find any merit in the petition. Accordingly, this petition stands rejected.

**(Sanjay Kumar, J)**

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