

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.44088 of 2014

Arising Out of P.S.Case No. -3314 Year- 2013 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

- =====
1. Noorul Hoda @ Nurul Hoda @ Ainul Hoda son of Late Jainul Mian
 2. Chote Miya
 3. Munna Miya @ Phaqrul Hoda
 4. Chand Miya All sons of Noorul Hoda @ Nurul Hoda @ Ainul Hoda
 5. Azad Miya son of Late Samsul Hoda All are resident of Village - Amwa Vijaipur, Police Station - Kuchaikote, District - Gopalganj.

.... Petitioners

Versus

1. The State of Bihar
2. Ramdei Devi wife of Madan Gond Resident of Village - Sipaya Dhala, Police Station - Vishambharpur, District - Gopalganj.

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Baxi S.R.P.Sinha, Sr. Advocate

For the Opposite Parties : Ms. Anita Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 04-09-2017

This application under Section 482 of the Cr.P.C. has been filed to quash the order dated 19.05.2014 passed by Chief Judicial Magistrate, Gopalganj in Complaint Case No.3314 of 2013 whereunder the learned Magistrate finding prima-facie case for the offence under Section 323, 341, 380 and 504/34 of the IPC ordered for issuance of summons against the petitioners.

2. Heard and perused the record.

3. The Opposite Party No.2 filed a complaint case on the file of CJM alleging inter-alia that on the date of occurrence these



petitioners variously armed with weapon came to the complainant (Opposite Party No.2) and asked her to remove hut from the PO land. The complainant requested them that she has no other place to go as her land has gone in river bed. Thereafter these petitioners dragged and assaulted the complainant and also removed her clothes. They attempted to put dirty materials of the drain in her mouth. They abused the complainant in public view and also took away house hold articles worth Rs.12,000/-.

4. Learned counsel for the petitioners submits that the impugned order has been passed in mechanical manner. The order itself reflects that the learned Magistrate has not applied judicial mind. The order was written in mechanical manner. There are allegation for the offence under Sections 354-A of the IPC and Sections 3(i)(x) of the SC/ST (Prevention of Atrocity) Act but the court below has not discussed about the application of those offences. The accused no.6 is the Officer-in-Charge but no order either discharging him or making out of offence against him has been passed which shows non-application of mind. The impugned order suffers illegality and is fit to be quashed.

5. The learned APP opposed the submissions.

6. On perusal of complaint petition and impugned order, I find that all the five petitioners are named in the complaint petition



and specific allegation is that they came at the house of the complainant and dragged her. They assaulted and also took her house hold articles. The impugned order of course is very cryptic but when I consider the statement made in complaint petition, I find that there is specific allegation of abusing and assaulting the complainant against the petitioners. It further appears that at the time of enquiry, besides the complainant her witnesses have also supported the allegation of abusing, assaulting and committing theft of her house hold articles and so it cannot be said that the learned Magistrate has not applied judicial mind.

7. In the facts and circumstances of the case, I do not find any merit in this application. Accordingly, this application is dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	11.09.2017
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