

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15576 of 2014

Arising Out of PS.Case No. -114 Year- 2011 Thana -LAHERIASARAI District- DARBHANGA

- =====
1. Md. Azharuddin Idrisi S/o Md. Ejaz Ahmad Resident of Village Sobhan, P.S. Simri, District Darbhanga.
 2. Md. Khalid S/o Md. Akhtar Resident of Village Khairi Banka, P.S. Bisfi, District Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Syed Md. Nawab, S/o Late Dr. Syed Mobarak Nawab Resident of Village/Mohallah Ganga Sagar Alalpatti, P.S. Laheriya Sarai, District Darbhanga.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Md. Anis Akhtar

For the Opposite Party/s : Mr. J.N. Thakur (A.P.P.)

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

Date: 21-09-2017

Heard both the parties.

Petitioners, by means of this application under section 482 of the Cr. P.C., have invoked the inherent jurisdiction of this Court with prayer to quash the orders dated 07.05.2013 and 14.05.2013 passed by C.J.M., Darbhanga, District - Darbhanga in Laheriya Sarai P.S. Case No. 114 of 2011, whereby cognizance has been taken against the petitioners for the offences under sections 406, 420, 465, 466, 467, 468, 471 and 472 of the I.P.C.

The contention of learned counsel for the petitioners is that no offence against the petitioners is disclosed and the present



prosecution has been instituted with *mala fide* intention for the purposes of harassment. Petitioners are the bona fide purchasers of a certain piece of land. The learned Court below has failed to appreciate the fact that the petitioners have nothing to do with the alleged occurrence.

Learned counsel appearing for the State opposes the application by contending that there are allegations against the petitioners and no ground for quashing the entire proceedings is made out.

From perusal of the materials available on record and looking into the facts of the case, at this stage, it cannot be said that no offence is made out against the petitioners. All the submissions made at bar relates to the disputed questions of facts, which cannot be adjudicated upon by this Court in exercise of power conferred under section 482 Cr. P.C. Only a *prima facie* satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required. At this stage only *prima facie* case is to be seen in the light of the law laid down by the Supreme Court in cases of *R.P. Kapur Vrs. State of Punjab*, A.I.R. 1960 SC 866, *State of Haryana Vrs. Bhajan Lal*, 1992 SCC (Cr.) 426, *State of Bihar Vrs. P.P. Sharma*, 1992 SCC (Cr.) 192, *Zandu Pharmaceutical Works Ltd. Vrs. Mohd. Saraful Haq and another* (Para-10) 2005 SCC (Cr.) 283 and recently in *A.R.C.I. Vrs.*



Nimra Cerglass Technics (P) Ltd. (2016) 1 SCC 348. The submissions made by the learned counsel for the petitioner/s call for adjudication on pure questions of fact which may be adequately gone into by the Trial Court in this case. This Court does not deem it proper, and therefore, cannot be persuaded to have a pre-trial before the actual trial begins. The disputed defence of the accused cannot be considered at this stage. The prayer for quashing the orders taking cognizance is refused.

The application, accordingly, stands dismissed.

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

