

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.35659 of 2014

Arising Out of P.S.Case No. -17 Year- 2012 Thana -SC/ST District- KISHANGANJ

- =====
1. Satish Madhav @ Satish Madhav Prasad son of Late Beni Madhav Prasad resident of Dharamshala Road, Town, Police Station and District- Kishanganj
 2. Nirmal Kanti Das Son of Late Beni Madhav Das No. 2. is resident of Mohalla-Gidhagachhi, Hospital Road, Town, Police Station and District- Kishanganj

.... Petitioners

Versus

1. The State of Bihar
2. Chameli Devi, wife of Deo Narayan Paswan, resident of village-Kajlamani, P.S. and District-Kishanganj

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Najmul Hoda, Advocate.

For the Opposite Party No.2 : Mr. Ziaul Quamar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 08-08-2017

This Criminal Miscellaneous application under Section 482 of the Cr.P.C. has been filed to quash the order dated 19.03.2013 passed by learned CJM, Kishanganj in Kishanganj (SC/ST) P.S.Case No.17 of 2012 whereby and whereunder the learned Magistrate finding prima-facie case for the offence under Sections 504 and 506/34 of the IPC as well as Sections 3(i)(iii)(iv) &(vi) of SC/ST (Prevention of Atrocities) Act summoned the petitioners.

2. Heard and perused the record.

3. The Opposite Party No.2 lodged a FIR with SHO of SC/ST Kishanganj alleging inter-alia that all the petitioners used to torture and hurl threat to vacate the land which was in her possession since three decades. The accused persons on 04.11.2012, in the morning armed with lathi, danda came and brutally assaulted her. They abused calling her caste name and dragged her and also outraged her modesty by stripping her clothes. The matter was investigated and police submitted chargesheet under Sections 504 and 506/34 of the IPC. The learned CJM after perusing the case diary and police report found prima-facie case for the offence under Sections 504 and 506/34 of the IPC and Sections 3(i),



(iii)(v) and (vi) of the SC/ST (Prevention of Atrocities) Act and ordered for issuance of summons.

4. It has been submitted that the present case has been lodged as counter blast to the earlier case of these petitioners which was filed on 03.12.2012 vide Kishanganj P.S.Case No.455 of 2012 for the offence under Sections 147, 149, 323, 341, 324 and 379 of the IPC. The Opposite Party No.2 in order to save her skin has lodged this case for false and frivolous allegation. There is land dispute between the parties and no offence under the SC/ST Act is made out. The learned Magistrate has passed the impugned order without applying judicial mind and so the same is fit to be quashed.

5. The learned Opposite Party No.2 opposed the submissions.

6. On perusal of FIR and documents available on record, I find that both the petitioners are named in the FIR and specific allegation is that on the date of occurrence they came at her place, abused naming her caste and assaulted by lathi, danda. The matter was enquired and police finding sufficient material against the petitioners submitted chargesheet. The learned CJM after going through the material on record found prima-facie case for the offence in question and accordingly took cognizance. The defence of the petitioners that the present case has been lodged as counter blast to the case of the petitioners cannot be taken into consideration at the time of taking cognizance.

7. In this view of the matter, I do not find any merit in this application. Accordingly, this application is dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
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