

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19703 of 2014

Arising Out of P.S.Case No. -1 Year- 2014 Thana -JAMALPUR District- DARBHANGA

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Ashok Yadav @ Ashok Kumar Yadav Son of Late Kamal Yadav R/o Village -
Kiratpur, P.S. Jamalpur, District - Darbhanga

.... Petitioner

Versus

1. The State of Bihar
2. Sitaram Yadav, son of Late Foudhar Yadav, resident of village-Kiratpur, P.S.
Jamalpur, District-Darbhang.

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Gajendra Prasad Yadav, Advocate

For the Opposite Party : Mr. A. Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 21-09-2017

This criminal miscellaneous application under Section 482 of the Cr.P.C. has been filed to quash the order dated 11.03.2014 passed by Judicial Magistrate, Ist Class, Biraul at Benipur in GR No.03 of 2014 arising out of Jamalpur P.S.Case No.01 of 2014 whereby and whereunder the learned Magistrate took cognizance for the offence under Sections 147, 148, 384 and 149 of the IPC and summoned the petitioner.

2. Heard and perused the record.

3. The Opposite Party No.2 lodged an FIR with the SHO of Jamalpur P.S. alleging inter-alia that on 02.01.2014 this petitioner along with nine others armed with deadly weapon came at his door. They abused and demanded an amount of Rs.5 laks for allowing the informant to cultivate of the land. On the alarm of informant, local people assembled and thereafter the accused persons fled away.



4. On perusal of FIR and documents on record, I find that the matter was enquired and police submitted charge-sheet against nine persons exonerating this petitioner. The learned Magistrate after perusing the case diary and differing with the police report took cognizance also against the petitioner. In the case diary, I find that the witnesses have stated that all the accused persons participated in the crime. The defence of ali-bi that this petitioner is a government employee and at the time of occurrence, he was working in Secretariat at Patna and his further defence in case diary that two witnesses have not supported the presence of this petitioner at the place of occurrence cannot be taken into consideration at the time of taking cognizance. The materials on record and in case diary are sufficient to proceed against the petitioner. The learned Magistrate has rightly taken the cognizance against him. The petitioner will have an opportunity to raise his defence at the time of trial.

5. In the facts and circumstances, I do not find any merit in the criminal miscellaneous application. This application is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
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