

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.44388 of 2014

Arising Out of PS.Case No. -248 Year- 2014 Thana -NALANDA COMPLAINT CASE District-
NALANDA (BIHARSHARIFF)

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Sita Sharan Prasad Son of Late Tulsi Mahto R/o Village Parasdiha, Post Parasdiha,
P.S. Nagarnausa, District Nalanda

.... Petitioner/s

Versus

1. The State of Bihar
2. Shiv Pujan Prasad Son of Late Girdhar Singh R/o Village Awdalpur, Post
Office, Sultanpur, P.S. Fatuha, District Patna

.... Opposite Party/s

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Appearance:

For the Petitioner/s	:	Mr. Raj Nandan Prasad Singh, Mr. R.C. Pandey and Mr. Amit Anand, Advocates.
For the State:		Mr. Jharkhandi Upadhyay, A.P.P.
For the Opposite Party no.2:		Mr. Satyendra Prasad Singh, Mr. Anil Kumar Singh, Mr. Sant Kumar Bharti and Mr. Pravin Kumar, Advocates.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 10-10-2017

Heard learned counsel for the petitioners and learned
counsel representing the opposite party no. 2 as well as learned A.P.P.
for the State.

2. The petitioner is seeking quashing of the order dated
11.06.2014 passed by the learned Judicial Magistrate 1st Class,
Nalanda in Complaint Case No. 248C/2014 by which the learned
Magistrate has taken cognizance of the offences under Sections 323,
379 and 420 of the Indian Penal Code.

3. Learned counsel for the petitioner submits that from a bare



perusal of the statements made in the complaint case, it would appear that it is a pure and simple civil dispute which has been given colour of a criminal proceeding. Learned counsel relies on certain documents enclosed with the petition in order to demonstrate that it is a civil dispute.

4. However, this Court is of the opinion that this is a complaint case and presently only a *prima facie* view has been taken by the learned Magistrate for purpose of cognizance. The petitioner will have a liberty to raise all such pleas and file all such documents which are with him at the stage of evidence before charge and, if so advised, pray for his discharge before the court below. According to this Court, the order taking cognizance cannot be interfered with at this stage. The petitioner will be at liberty to raise all such pleas which are available to him at the time of framing of charge and, if such pleas are taken, the court below shall consider the same in accordance with law.

5. The application is disposed of with the observations as above.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
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