

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51345 of 2013

Arising Out of PS.Case No. -107 Year- 2012 Thana -SIMRI District- BUXAR

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1. Suresh Ram, Son of Shivrati Ram, Resident of Village- Chotka Singhanpura,
P.S. Simari, District- Buxar

2. Nutan Devi @ Anita Devi, Wife of Suresh Ram, Resident of Village- Chotka
Singhanpura, P.S. Simari, District- Buxar

.... Petitioner/s

Versus

1. The State of Bihar

2. Shiv Dhayan Ram, Son of Late Calcutai Ram, Resident of Village- Singhanpura,
P.S.- Simari, District- Buxar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 22-06-2017

Heard learned counsel for the petitioners and the
learned counsel for the State.

2. This application, under Section 482 of the Code of
Criminal Procedure, is directed against the order dated 13.09.2013
passed in Simari P.S. Case No. 107 of 2012, whereby the learned
Chief Judicial Magistrate, Buxar, took cognizance for the offence,
under Sections 341, 323, 447, 307 and 504 of the Indian Penal Code,
against five accused persons named in the F.I.R. including the
petitioners differing with the opinion of the Investigating Officer, who
submitted the charge sheet against only three accused persons, Shivtri
Ram, Kamla Devi and Duleshwari Devi and final form in respect to
both petitioners.



3. Learned counsel for the petitioners submits that petitioner no. 1 along with his wife, petitioner no. 2 was in Buxar in connection with teaching in the school as petitioner no. 1 is teacher but the learned Chief Judicial Magistrate, Buxar, illegally took the cognizance for the offence under Sections 341, 323, 447, 307 and 504 of the Indian Penal Code against the petitioners differing with the final form as submitted by the Investigating Officer against the petitioners.

4. It is well settled that the Magistrate having power to take cognizance is competent to differ with the opinion of the Investigating Officer on perusal of materials available on the record in case diary.

5. On going through the impugned order, I find no illegality in the impugned order amounting to abuse of the process of the court for interference in inherent jurisdiction under Section 482 of the Code of Criminal Procedure. Accordingly, this application is dismissed. However, the petitioner would be at liberty to raise his defence/points in trial court at the appropriate stage.

(Rajendra Kumar Mishra, J)

Bhardwaj/-

AFR/NAFR	
CAV DATE	
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