

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19766 of 2014

Arising Out of PS.Case No. -43 Year- 2013 Thana -SISWAN District- SIWAN

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1. Parmatma Singh Son of Late Banwari Singh
2. Abhishek Kumar @ Bisket Singh Son of Sanjay Singh Both Resident of Village -
Baghauna, P.S. - Siswan, District - Siwan

.... Petitioner/s

Versus

1. The State of Bihar
2. Uday Pratap Singh alias Munna Singh Son of Late Jagdish Singh Resident of
Village - Baghaunaa, P.S. - Siswan, District - Siwan

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar
Mr. Kundan Kumar
Ms. Ranjeeta Singh
For the Opposite Party/s : Md. A. Haque Sahua, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 11-07-2017

1. Heard both sides.
2. This is an application under Section 482 of the Cr.P.C. for quashing the order dated 24.02.2014 passed by learned Chief Judicial Magistrate, Siwan in Siswan P.S. Case no. 43 of 2013 whereby cognizance for the offence under Section 377/34 of the Indian Penal Code was taken against the petitioners.
3. The learned counsel for the petitioners submits that the petitioners are related as grandfather and grandson. The petitioner no. 1 is 65 years old person and it is not expected that the grandfather and his grandson together would indulge in such immoral act. The case has been lodged on account of enmity with false and frivolous



allegation. The victim was medically examined and the doctor has not found any sign of unnatural offence. Besides that, the police after investigation did not find any material and submitted final report and so the order taking cognizance is fit to be quashed.

4. The learned APP opposed the submissions. It has been submitted that the learned C.J.M. after going through the statement of witnesses recorded in the case diary has rightly taken cognizance against the petitioners.

5. On perusal of the impugned order, I find that the learned Magistrate after going through the statement of victim given before Magistrate under Section 164 of the Cr.P.C. and statement of other witnesses recorded at paragraph nos. 3, 4, 6, 7, 8, 9, 10, 11, 31 and 34 of the case diary came to the conclusion that there were sufficient material for the offence under Section 377/34 of the I.P.C. against the petitioners. The Magistrate has rightly taken cognizance differing with the police.

6. I do not find any illegality in the order taking cognizance. As such, the Cr. Misc. application is dismissed.

(Sanjay Kumar, J)

rohit/-

AFR/NAFR	N.A.F.R.
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