

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17694 of 2014

Arising Out of PS.Case No. -7 Year- 2012 Thana -ARARIA District- ARRARIA

=====

Dharmendra Kumar Singh @ Yadav, Son of Late Darbari Yadav, Resident of Village - Hasanpur, Police Station - Raniganj, District - Araria.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Rekha Devi, Wife of Chandesh Risideo, Resident of Village - Hasanpur Baludhima, Police Station - Raniganj, District - Araria.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Rana, Advocate.
For the Opposite Party No.2 : Mr. Sudish Kumar, Advocate.
For the State : Mr. Ram Shankar Das, Spl. P.P.

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 06-10-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 21.01.2014 passed by the learned Chief Judicial Magistrate, I/C., Araria, in G.R. No. 1594 of 2012 arising out of S.C./S.T. Araria P.S. Case No. 07 of 2012 by which the learned Magistrate has taken cognizance against the petitioner for the offences under Sections 448, 341, 342, 323, 504, 376/511 of the Indian Penal Code and Sections 3(i)(x)(xi) of the SC/ST Act.

2. As per written report, there is specific allegation against this petitioner. The police after investigation, submitted charge sheet against this petitioner for the offence under Sections 448, 341, 342, 323, 504, 354 of the Indian Penal Code and Sections 3(i)(x)(xi) of SC/ST Act.

3. The court below has after perusing the allegation in the



written report and the material in the case diary found prima facie case against the petitioner for the offence under Sections 448, 341, 342, 323, 504, 376/511 of the Indian Penal Code and Sections 3(i)(x)(xi) of the SC/ST Act against this petitioner by the impugned order dated 21.01.2014.

4. Heard learned counsel for the petitioner, learned counsel for the opposite party No. 2 and learned counsel for the State.

5. Learned counsel for the petitioner has submitted that compromise petition has been filed between the parties in the court below, copy of which, has been enclosed as Annexure-3. It has further been submitted that total five cases were pending between the parties and on the basis of aforesaid compromise, proceeding against one of the accused in another case, has been quashed by a coordinate Bench of this Court vide order dated 08.12.2014 passed in Cr. Misc. 8128 of 2014.

6. In the instant case, after perusing the allegation in the written report and material in the case diary, this Court finds that there is specific allegation of overt act against this petitioner. The charge sheet has been submitted after investigation against this petitioner and on the basis of charge sheet after perusing the materials available in the case diary, the cognizance has been taken by the learned Magistrate against the petitioner, by the impugned order.

This Court is of the view that mere filing of compromise petition in cases of non-bailable offence, does not make the cognizance order illegal. The cognizance order can only be quashed if there is apparent illegality committed by the court below in passing the aforesaid order.



7. In the instant case, this Court finds that cognizance has been taken by the court below for the offences which are not compoundable. The impugned order is not liable to be quashed merely on the ground that in one of the cases pending between the parties, the proceeding against some of accused has been quashed by coordinate Bench of this Court.

8. Counsel for the petitioner has not been able to point out any illegality in the impugned order.

9. Therefore, this Court does not find any illegality in the impugned order of taking cognizance by the court below.

10. This Criminal Miscellaneous application is accordingly dismissed.

11. The parties are however given liberty to take appropriate steps in the court below in terms of compromise. In that event, the court below will dispose off the case expeditiously after recording the evidence of the parties.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	13/10/2017
Transmission Date	13/10/2017

