

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39591 of 2016

Arising Out of PS.Case No. -1736 Year- 2015 Thana -SARAN COMPLAINT CASE District-
SARAN

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1. Jugdish Rai.
2. Jaleshwer Rai
3. Tarkeshwer Rai all (1to 3) sons of Late Ramdas Rai.
4. Munna Kumar Rai, son of Jaleshwer Rai.
5. Upender Rai.
6. Mannu Lal Rai, both (5 to 6) sons of Chhathi Lal Rai.
7. Kewalpato Devi @ Kewalpati Devi wife of Chhathi Lal Rai.
8. Marachho Devi wife of Jugdish Rai.
9. Munar Devi @ Munari Devi daughter of Jugdish Rai.
10. Sona Devi Wife of Jaleshwer Rai.
11. Savita Kumari daughter of Jaleshwer Rai.
12. Shanti Devi @ Gyanti Devi Wife of Tarkeshwer Rai all residence of
Village- Sherpurganj, Police Station- Chapra Mufasil, District- Saran at
Chapra.

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shambhu Prasad Yadav

For the Opposite Party/s : Mr. Sri Binod Kumar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 20-04-2017

Heard learned counsel for the petitioners and

learned Additional P.P. for the State.

The present application has been filed for quashing the order dated 02.11.2015 passed by learned Judicial Magistrate, Chapra in Tr. No. 1654/ 2015/ Tr. No. 1484 of 2016, arising out of Complaint Case No. 1736 of 2015 whereby processes have been directed to be issued after cognizance being taken for the offences punishable under Sections 323, 504, 506 of



the Indian Penal Code.

It is submitted by the learned counsel for the petitioners that the prosecution case is that the petitioners cunningly got certain land transferred in his favour from the mother-in-law of the complainant. Moreover for similar accusation opposite party no.2 had filed Chapra Mufasil P.S. Case No. 107 of 2015 registered on 13.005.2015 under Sections 323, 341, 148, 149, 452, 354 and 379 of the Indian Penal Code.

In view of this Court at the stage of passing order under Section 190(1)(a) Cr.P.C. the learned Magistrate has only to see that the accusation constitutes the prima facie case for the purpose of taking cognizance, as has been held in the case of **Sonu Gupta Vs. Deepak Gupta & Ors.**, 2015(2) PLJR (SC) 321. Paragraph no. 7 reads as:-

“Having considered the details of allegations made in the complaint petition, the statement of the complainant on solemn affirmation as well as materials on which the appellant placed reliance which were called for by the learned Magistrate, the learned Magistrate, in our considered opinion, committed no error in summoning the accused persons. At the stage of cognizance and summoning the Magistrate is required to apply his judicial mind only with a view to take cognizance of the offence, or, in other words, to find out



whether prima facie case has been made out for summoning the accused persons. At this stage, the learned Magistrate is not required to consider the defence version or materials or arguments nor he is required to evaluate the merits of the materials or evidence of the complainant, because the Magistrate must not undertake the exercise to find out at this stage whether the materials will lead to conviction or not.”

Hence, in view of above settled legal position coupled with the fact that impugned order was passed on 02.11.2015 this Court is not inclined to interfere with the impugned order at this stage. However, this application is disposed of with liberty to the petitioner to raise all the contentions at the appropriate stage of proceeding

(Dinesh Kumar Singh, J)

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