

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3230 of 2016

Arising Out of PS.Case No. -105 Year- 2014 Thana -NATIONAL HIGHWAY District-
SAMASTIPUR

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1. Md. Samim Hasmi Son of Salim Hasmi
2. Md. Alamgir Hasmi, Son of Iliyas Hasmi,
3. Md. Sarif Hasmi, Son of Sagir Hasmi,
4. Shabbir Hasmi @ Shabbir, Son of Sagir Hasmi,
5. Md. Tanweer, Son of Illiyas Hasmi, All resident of village - Rahimabad,
Police Station - N.H. Bangra, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Nasima Khatoon, Wife of Md. Islam, Resident of Rahimabad Quraishi
Mohall, Police Station - N.H. Bangra, District - Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Harun Quareshi
For the Opposite Party/s : Mr. J.N. Thakur (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 13-04-2017

Heard learned counsel for the parties.

The present application has been filed for quashing the order cognizance dated 7.7.2015 passed by the learned C.J.M., Samastipur in N.H. Bangra P.S. Case No. 105 of 2014 whereby prima facie case has been found against the petitioners under sections 341,323,325,504 and 354/34 of the Indian Penal Code.

It is submitted by learned counsel for the petitioners that the accusation has been levelled in the background of litigated relationship between the parties. The petitioners side lodged a case at an earlier point of time against the informant side.



At the stage of passing order under section 190(1)(b) Cr.P.C., the Magistrate has only to see that the prima facie case is made out. It appears from the FIR that there is specific accusation against the petitioner and on conclusion of investigation, Final Report (chargesheet) was submitted under sections 341,323,325,504 and 354/34 of the Indian Penal Code. More over, the order of cognizance was passed on 7.7.2015 but there is nothing on record to suggest the present stage of the case. A Magistrate while exercising jurisdiction under Section 190(1)(b) Cr. P.C. has one advantage of having police report containing the materials collected during investigation. There is nothing on record to suggest that learned Magistrate has not applied his judicial mind while passing the impugned order.

Hence, this court is not inclined to interfere in the matter at this stage. However, this application is disposed of with liberty to the petitioners to raise all the issues at the appropriate stage of the proceeding.

(Dinesh Kumar Singh, J)

Anil/-

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