

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19793 of 2014

Arising Out of P.S.Case No. -88 Year- 2010 Thana -MAGADH MEDICAL COLLEGE District-
GAYA

- =====
1. Arun Kumar Singh S/o Late Basudeo Singh
 2. Kaushlendra Narain Singh S/o Arun Kumar Both Resident of Village Rainath, Police Station Karpi, District Arwal.
 3. Subodh Kumar S/o Brajbihari Sharma Resident of Village Mau, P.S. Tekari, District Gaya.
 4. Krishna Singh @ Krishnanandan Singh S/o Late Ram Pravesh Rai, Resident of Village Nirbhay Dihra, Police Station Sikarhatta, District Bhojpur, Ara.
 5. Pramod Singh @ Pramod Kumar. S/o Late Saryu Singh Resident of Mohalla Chotki Delha, P.S. Delha, District Gaya.
 6. Chandramouli S/o Om Prakash Resident of Mohalla Hanuman Nagar Madanpur, Police Station Civil Line, District Gaya.

.... Petitioners

Versus

1. The State of Bihar
2. Lalan Prasad S/o Late Rameshwar Prasad Singh Resident of Mohalla Kalibari, P.S. Civil Line, District Gaya.

.... Opposite Parties

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Appearance :

For the Petitioners	:	Mr. Ashok Kumar, Advocate
	:	Mr. Bibhuti Narayan, Advocate
For the Opposite Parties	:	Mr. Manish Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 13-09-2017

This application under Section 482 of the Cr.P.C. has been filed to quash the order dated 21.11.2013 passed by CJM, Gaya in M.M.C.H. P.S. Case No.88 of 2010 whereby and whereunder the learned CJM finding prima-facie case for the offence under Section 147, 148, 149, 341, 323, 447, 427 and 380 of the IPC as well as Sections 3(1)(x) of the SC/ST Act and ordered for issuance of summons against the petitioners.



2. Heard both sides and perused the record.

3. A police case vide M.M.C.H (Gaya) P.S.Case No.88 of 2010 was registered against the petitioners and other co-accused for the offence under Sections 147, 148, 149, 341, 323, 447, 307, 427 and 380 of the IPC. The matter was investigated and police submitted charge sheet against the petitioners for the offence under Sections 147, 148, 149, 341, 323, 447 and 427 of the IPC vide charge sheet no.72 dated 31.07.2013. The learned Magistrate after perusing the case diary besides the above sections also took cognizance for the offence under Section 380 of the IPC and 3(1)(x) of the SC/ST Act.

4. The contention of the learned counsel for the petitioners is that the FIR was not registered under Section 380 of the IPC and Section 3(1)(x) of the ST/ST Act and so the learned Magistrate has erred in taking cognizance under the aforesaid Sections.

5. On perusal of FIR, I find that there is specific allegation that the petitioner nos.1, 2 and 4 assaulted one of the staff of the informant and threatened to kill him and also abused him naming his caste in public view. The defence of the petitioners that a land dispute is going on between the informant and the petitioners and also a counter a case lodged from the side of the petitioners cannot be taken into consideration at the time of taking cognizance. The case no.189 of 2011-12 filed under Bihar Land Dispute Redressal Act has been



filed subsequent to the lodging of criminal case by the Opposite Party No.2. The learned Magistrate finding prima-facie case has rightly taken cognizance against the petitioners.

6. In view of the above facts, I do not find any merit in the criminal miscellaneous application and the same is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	16.09.2017
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