

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41066 of 2016

Arising Out of PS.Case No. -185 Year- 2014 Thana -KESARIA District- EAST CHAMPARAN(MOTIHARI)

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1. Ganaur Rai Son of Bhoga Rai,
2. Teju Rai, Son of Bhoga Rai,
3. Baiju Rai, Son of Niranjan Rai.
4. Niranjan Rai. Son of Ganaur Rai,
5. Chandeshwar Rai, Son of Sudama Rai,
6. Kapil Rai Son of late Raghunath Rai.
7. Sanjay Rai, Son of Baiju Rai,
All are resident of village- Sobaiya, P.S.- Kesariya, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sobha Devi wife of Mahesh Rai, resident of village – Subaiyya, PS-Keshariya,
District-East Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate
For the O.P. No. 2 : Mr. Shail Kumari, Advocate
For the State : Mr. Binay Krishna, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 09-10-2017

1. This criminal miscellaneous application under section 482 of the Code of Criminal Procedure has been filed to quash the order dated 26th February 2016 passed by the learned Additional Chief Judicial Magistrate-XI, East Champaran at Motihari in Kesariya Police Station Case No. 185 of 2014 whereby and whereunder the learned Magistrate finding *prima facie* case, took cognizance against these petitioners for the offence under section 427 of the Indian Penal Code, section 3 (i) (x) SC/ST (POA) Act and section 3/4 of the



Prevention of Witch (Daain) Practices Act.

2. Heard learned counsel for the petitioners, learned Special Public Prosecutor for the State and perused the record.

3. The case has been registered on the basis of written report of the opposite party no. 2 wherein she has specifically alleged that all the petitioners damaged her asbestos/tiles of roof by throwing bricks and stones and on protest of informant, petitioners caught hold of her and abused naming her caste in public view. The matter was investigated and a report was submitted by Police. The learned Magistrate after perusing case diary found *prima facie* case and took cognizance against these petitioners. The defence of the accused as regards false implication on account of land dispute cannot be taken into consideration at the stage of passing order on cognizance matter.

4. In view of discussion made above, I do not find any merit in this criminal miscellaneous application. Accordingly, this application is dismissed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
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