

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53069 of 2013

Arising Out of PS.Case No. -123 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Abdul Bahab @ Bahab Resident of Sisauna, P.S. Jokihat, Distt. - Araria
2. Md. Afzal Resident of Sisauna, P.S. Jokihat, Distt. - Araria
3. Md. Hasim Resident of Sisauna, P.S. Jokihat, Distt. - Araria
4. Md. Akhtar Resident of Sisauna, P.S. Jokihat, Distt. - Araria
All sons of Dast Muhammad

.... Petitioners

Versus

1. The State of Bihar
2. Krishna Prasad S/O Baldev Sao Resident of Telhara, District - Nalanda

.... Opposite Parties

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Appearance :

For the Petitioner/s : None

For the Opposite Party/s : Ms. Indu Bala Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 25-01-2017 No body appears on behalf of the petitioners on repeated calls. Yesterday also no body appeared on behalf of the petitioners and the case was posted for today for hearing the parties and it was made clear that if no body appears today on behalf of the petitioners, the case shall be decided on its own merit.

From perusal of the record it appears that the petitioners have preferred this quashing application against the order dated 10.9.2012 issuing processes passed by Sri Sadan Lal Priyadarshi, Judicial Magistrate, 1st Class, Masaurhi, in Complaint Case No. 123(C) of 2012.



Prosecution case, in short, is that opposite party No.2 filed a complaint petition in the court of SDJM, Masaurhi against the petitioners for the offences under Sections 406, 467, 468, 420, 120B and 323/34 of the Indian Penal Code. Thereafter the case was transferred to the court of Judicial Magistrate, 1st Class for enquiry and disposal under Section 202 Cr.P.C. and the learned Magistrate after enquiry finding a prima facie case under Section 406, 418 and 120B IPC has ordered for issuance of processes vide impugned order.

It further appears that the petitioners have filed the present application for quashing the impugned order by which the processes were directed to be issued against the petitioners.

From perusal of the record it further appears that the petitioners have tried to show that the matter relates to civil dispute and, as such, the order issuing processes is only an abuse of the process of the court.

Heard learned APP.

Learned APP has submitted that learned Magistrate after enquiry finding prima facie case against the petitioners for the offences under Sections 406, 418 and 120B IPC had ordered for issuance of processes and, as such, there is no illegality in the impugned order.



In view of the discussions made above and after perusal of the record it appears that after examination of the evidences available before the court below and after considering the enquiry report, learned Magistrate has issued processes against the petitioners under Sections 406, 418 and 120B IPC and there is nothing illegal in it.

Accordingly, I find no merit in this application. It is dismissed.

(Vinod Kumar Sinha, J)

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