

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17825 of 2013

Arising Out of PS.Case No. -890 Year- 2011 Thana -BUXAR COMPLAINT CASE District-
BUXAR

- =====
1. Ram Pratap Ram S/O Late Nirhu Ram Residing At Itarhi Police Station, Premises, P.O. And P.S.- Itarhi, District- Buxar
 2. Sanjogiya Devi W/O Late Uday Paswan @ Chaukidar Resident Of Village- Banarpur, P.S.- Buxar (Mufassil), District- Buxar
 3. Kamla Singh S/O Singhasan Singh Resident Of Village- Banarpur, P.S.- Buxar (Mufassil), District- Buxar
 4. Surendra Paswan S/O Late Uday Paswan Resident Of Banarpur, P.S.- Buxar (Mufassil), District- Buxar
 5. Birendra Paswan S/O Late Uday Paswan Resident Of Banarpur, P.S.- Buxar (Mufassil), District- Buxar
 6. Satendra Paswan S/O Late Uday Paswan Resident Of Banarpur, P.S.- Buxar (Mufassil), District- Buxar

.... Petitioners

Versus

1. The State Of Bihar
2. Singhasan Rai @ Singhasan Choudhary S/O Late Bishun Choudhary Resident Of Village- Banarpur, P.S.- Buxar (Mufassil), District- Buxar

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Dr. Binod Bihari Sinha, Petitioner
For the State : Mr. G.S. Gupta, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 21-06-2017

This petition for quashing has been filed against the order dated 11.9.2012 whereby cognizance has been taken in this case against the petitioners under Sections 323 and 504 of the Indian Penal Code in connection with Complaint Case no.890 of 2011 passed by the Judicial Magistrate, 1st Class, Buxar.

2. Learned counsel appearing on behalf of the petitioners submits that at the relevant time, petitioner no.1 was



Officer-in-Charge of Buxar Mufassil Police Station, petitioner no.2 was Chaukidar of the concerned area and petitioner no.3 was constable of Special Armed Police rest petitioners were neighbours of the complainant. The present complainant-opposite party no.2, Singhasan Rai was an accused in two cases, first Buxar Mufassil P.S. Case No.177 of 2011 registered under Sections 452, 341, 323, 504, 380 and 34 of I.P.C. lodged by the informant Saraswati Devi and second case was lodged by petitioner no.2, Sanjogia Devi, a local Caukidar against the complainant and others vide Mufassil P.S. Case No.198 of 2011 dated 29.8.2011 registered under Sections 341, 323, 353, 333, 332, 504, 506, 34 of I.P.C. Subsequently, the present complaint dated 3.9.2011 was filed by the complainant in order to wreak vengeance against petitioners. It is also submitted that no sanction for prosecution from the State Government was obtained in this case as the petitioner nos.1 to 3 are public servant so the petitioners are protected in view of Section 197 of Cr.p.C. as no prosecution can be launched without prior sanction from the Government.

3. The learned A.P.P. submits that there is no illegality in the impugned order and the allegations levelled in the complaint do constitute a prima facie case in which cognizance has been taken.

4. On perusal of the record, I find that the allegation



levelled in the complaint is that the accused persons came to the house of the complainant and asked them whether he has taken bail in Buxar Mufassil P.S. Case No.177 of 2011 or not. It is alleged that they assaulted the other family members whereas in the statement given by the complainant on solemn affirmation before the Court he says that Sanjogia Devi, petitioner no.3 asked whether he had given evidence as the witness in court or not so there is vital contradictions in the allegation levelled in the complaint as well as the statement given on S.A. before the Court. Moreover, it appears that the complainant was accused in two cases, only a few days back, petitioner no.3 had lodged F.I.R. against the complainant so it appears that the allegation is vexatious in nature to wreak vengeance, so continuation of criminal proceeding against petitioners would be abuse of process of the Court..

4. Therefore, the impugned order taking cognizance against the petitioners and subsequent criminal proceeding against them is set aside.

5. In the result, this quashing petition is allowed.

(Arun Kumar, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
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