

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33493 of 2014

Arising Out of PS.Case No. -17 Year- 2013 Thana -BAHADURGANJ District- KISANGANJ

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1. Md. Afjal Hussain @ Afzal Hussain Son of Late Lateful Hussain R/o Charakpura, P.S. - Bahadurganj, District - Kishanganj, At present R/O Mirchaibari Masjid Road, District- Katihar.
 2. Md. Bagwani Hussain Son of Late Mahabud Hussain
 3. Rizwan Alam Son of Late Lateful
 4. Md. Imran @ Imran Alam @ IbranAlam @ Ibrar Alam Son of Late Lateful Hussain
 5. Afsar Alam @ Md. Afsar Alam @ Md. Afser Alam Son of Late Raisoddin
 6. Md. Asgar Alam Son of Late Raisoddin
 7. Md. Mazul @ Mazul Son of Late Kashibul Hussain All Resident of Village - Charakpura, P.S. - Bahadurganj, District- Kishanganj.
 8. Md. Nasim Son of Late Lafetur Rahman
 9. Abdul Kasim @ Md. Abdul Hussain @ Chamaru @ Abul Kasim Son of Late Dilwar Hussain
 10. Ijhar Asraf @ Md. Ijhar Alam Son of Abdul Kasim
 11. Md. Jafar Alam @ Jafar Alam @ Md. Zafar Alam Son of Abdul Kasim
 12. Mujahir Alam Son of Abdul Kassim
 13. Anwar Alam Son of Late Haffizuddin R/o Village - Desiatola
 14. Md. Bajar Alam Son of Aissuddin
 15. Nazir Mannan @ Md. Nazir Mannan, Son of Lahurgaate Jamirul Haque R/O Rangamani, Desiatola, P.S. - Bahadurganj, District- Kishanganj. All are resident of Rangamani Desiatola, P.S. - Bahadurganj, District- Kishanganj.

.... Petitioners

Versus

1. The State of Bihar,
2. Thumo Devi, Wife of Sri Bimal Harijan, Resident of village Chaukpwa, P.S. Bahadurganj, District-Kishanganj.

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Sinha, Adv.
For the Informant : Mr. Shailendra Kumar Jha, Adv.
For the State : Mr. A.M.P. Mehta, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT

Date: 18-08-2017

Heard learned counsel for the petitioners, learned counsel for O.P. No.2 and also learned A.P.P. appearing on behalf of State.

2. This application has been filed under Section 482 of the Cr.P.C. to quash the order dated 05.06.2014 passed in



Bahadurganj P.S. Case No. 17 of 2013, whereunder the Judicial Magistrate, 1st Class, Kishanganj took the cognizance for the offence under Sections 342, 504 and 506/34 of the Indian Penal Code and Section 3(2), (x), (xiv) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. The fact leading to this application is that one Thumo Devi (O.P. No.2) along with 32 others submitted written report at Bahadurganj Police Station against the accused-petitioners to the effect that around their houses, the land of Muslim community are situated, due to that reason the people of Muslim community used to abuse them in case of going to any person or cattle over their land. The informant and others are in minority and they used to do the work of labourer. Their children were also threatened by the Muslim community during the visit of school and the shopkeepers were also directed not to give articles to the informant and others. Earlier, a meeting was convened by the Muslim community at the instance of accused-petitioners to boycott informant and others.

4. Learned counsel for the petitioners submits that, in fact, the lands of the accused-petitioners are situated near the house of the informant and others, who put their signatures on the written report. On making objection due to grazing the crop by cattle of informant and others only to put undue pressure the present case has been lodged. Further submission is that on going through the First Information Report and case diary, it would appear that neither the informant nor other witnesses have stated



about any specific overt act of any accused-petitioners.

5. Learned counsel appearing on behalf of the Complainant-O.P. No.2 submits that there is no illegality in the impugned order taking the cognizance under Sections 342, 504 and 506/34 of the Indian Penal Code and Section 3(2), (x), (xiv) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Further submission is that informant/O.P. No.2 and others, who put their signature on the written report, which is the basis of the F.I.R. is living in fear.

6. Learned A.P.P. while submits that there is illegality in the impugned order taking cognizance of the offence under Sections 342, 504 and 506/34 of the Indian Penal Code and Section 3(2), (x), (xiv) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, but admitted that no specific incidence has been detailed by any witnesses about atrocities to the informant/O.P. No.2 and other, who put their signature on the written report at the hand of accused-petitioners.

7. On going through the impugned order and F.I.R., it appears that there is vague allegation about torture of the complainant/O.P. No.2 and others persons, who put their signature on the written report, which is the basis of the F.I.R. None of the witnesses in the case diary has stated about specific overt act and incident of the accused-petitioner. As such, impugned order taking cognizance of the offence under Sections 342, 504 and 506/34 of the Indian Penal Code and Section 3(2), (x), (xiv) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is illegal



and abuse of process of Court.

8. In the result, the impugned order dated 05.06.2014 passed in Bahadurganj P.S. Case No. 17 of 2013, whereunder the Judicial Magistrate, 1st Class, Kishanganj took the cognizance for the offence under Sections 342, 504 and 506/34 of the Indian Penal Code and Section 3(2), (x), (xiv) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the accused-petitioners is hereby quashed. Accordingly, this application is allowed.

(Rajendra Kumar Mishra, J)

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AFR/NAFR	NAFR
CAV DATE	N.A
Uploading Date	24.08.2017
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