

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41045 of 2014

Arising Out of PS.Case No. -6 Year- 2011 Thana -SAMASTIPUR COMPLAINT CASE District-SAMASTIPUR

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1. Harihar Prasad, Son of Late Mojelal Mahto
2. Ajay Kumar Choudhary @ Pappujee, Son of Late Jai Mangal Choudhary
Both Resident of Mohalla - Barah Pathar, Ward no. 15, Police Station - Samastipur
Town, District - Samastipur

.... Petitioner/s

Versus

1. The State of Bihar
2. Suresh Rai, son of late Awdhi Rai, resident of village-Vikrampur Bandey, P.S.-
Muffasil, District-Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Sinha, Adv.

For the Opposite Party no.1: Mr. Satyavrat Verma, APP

For the Opposite Party no.2: Mr. Shailendra Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 09-10-2017

Heard learned counsel for the petitioners, learned APP
for the State and learned counsel representing the opposite party no.2.

The petitioners, in the present case, are seeking
quashing of the order dated 24.10.2011 passed by the learned Sub-
Divisional Judicial Magistrate, Samastipur in Complaint Case No.6 of
2011 (arising out of T.R.No.6181 of 2014) by which he has taken
cognizance of the offences under Sections 323, 406 and 420/34 of the
Indian Penal Code and decided to issue summons against the accused
persons.

Learned counsel for the petitioners submits that the



present case is nothing but a mala fide prosecution of the complainant and whole story as made out in the complaint petition is concocted and baseless. Learned counsel submits that there is no evidence much less the medical report showing that there is any such injury as alleged by the complainant that too caused by present petitioners. Therefore, this Court in exercise of its inherent jurisdiction may quash the order taking cognizance.

On the other hand, learned counsel representing the opposite party no.2 as well as learned APP representing the State submit that in fact a bare perusal of the complaint petition would show that a prima facie case is made out against the petitioners. They further submit that there are depositions of the enquiry witnesses on the record who have supported the case of the complainant and only after perusal of materials on record the learned Magistrate has taken cognizance and decided to issue summons against the petitioners. It is thus their submission that the order taking cognizance need not be interfered with.

Having perused the materials available on the record and upon consideration of the rival submissions, this Court is of the considered opinion that the order taking cognizance cannot be said to be bad in view of the allegations made in the complaint petition supported by the enquiry witnesses. This Court, therefore, refuses to



interfere with the order taking cognizance and issuance of summons against the petitioners.

The petitioners, if so advised, may raise all such pleas which are available to them at the time of framing of charge where the learned court below shall consider the materials available on the record to find out whether it is a fit case for framing of charge or not.

The application stands disposed off with the observations and directions made above.

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	
CAV DATE	
Uploading Date	10.10.2017
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