

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44653 of 2014

Arising Out of PS.Case No. -407 Year- 2013 Thana -PATNA COMPLAINT CASE District -
PATNA

- =====
1. Poonam Devi Wife of Krishna Mistry
 2. Krishna Mistry Son of Padarath Mistry
 3. Chandan Mistry @ Chandan Kumar S/o Krishna Mistry
 4. Kundan Mistry @ Kundan Kumar S/o Krishna Mistry
 5. Nandan Mistry @ Nandan Mistry S/o Krishna Mistry.
 6. Gudia Kumari D/o Krishna Mistry All are resident of Village - Nima,
P.S. - Dhanarua, District - Patna.

.... Petitioners

Versus

1. The State of Bihar.
2. Praman Sao S/o Vify Sao R/o Village - Nima, P.S. - Dhanrue, District -
Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Giridhar Gopal Tiwary
Mr. Dharmendra Kumar

For the State : Mr. Ajay Kumar 1 (APP)

For O.P. No. 2 : Mr. Shankar Kumar

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

3 30-11-2017 Heard learned Counsel for the petitioners as well as the

learned Counsel for the State as also the learned Counsel appearing on

behalf of Opposite party No. 2.

The petitioners seek quashing of the order dated 10.6.2014
passed by Judicial Magistrate, 1st Class, Masaurhi, in Complaint Case
No. 407-c of 2013 thereby taking cognizance of the offence under
Section 323 of the IPC.

Learned Counsel for the petitioners submits that earlier the
petitioners filed a Police case against the complainant side for the
same day of occurrence and as a counter blast the present case was



filed.

Whereas learned Counsel appearing on behalf of O.P. No. 2 submits that already after explaining the charge, the case is on the evidence stage and truthfulness of the allegation of both sides can only be ascertained after trial.

Having considered the submission of both sides the cognizance order cannot be interfered only on the basis that there is a case and counter case between both sides, unless the ingredient of the offence is not disclosed or the prosecution is expressly barred by any law or malicious in nature. Moreover, the case is at the stage of evidence, so there is no ground for interfering with the cognizance order.

Hence the application stands dismissed.

(Arun Kumar, J.)

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