

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27539 of 2014

Arising Out of PS.Case No. -2944 Year- 2012 Thana -HAJIPUR District- VAISHALI(HAJIPUR)

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1. Bishun Deo Singh @ Bishnu Deo Singh Son of Late Mangal Mahto
2. Daleep Kumar Singh Son of Bishun Deo Singh
3. Sudhir Kumar Singh Son of Bishun Deo Singh All are resident of Village -
Manpura, P.S. - Goraul, District - Vaishali.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Kushmi Devi Wife of Tunilal Das All are resident of Village - Manpura, P.S. -
Goraul, District - Vaishali.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar Singh

For the Opposite Party/s : None.

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL
ORAL JUDGMENT

Date: 05-07-2017

Heard learned counsel for the petitioners.

No one appears on behalf of the opposite party.

This application has been filed u/s 482 Cr.P.C.for
quashing of the order dated 09.07.2013 passed by the learned Judicial
Magistrate, 1st Class, Vaishali at Hajipur in Complaint Case No. 2499
of 2012 corresponding Trial No. 5325 of 2013 whereby cognizance
has been taken against the petitioners under Sections 323, 341 and
380/34 of the Indian Penal Code.

The case has been filed against the petitioners with an
allegation that on 31.07.2012 at about 6 A.M. in the morning when
the daughter-in-law of the complainant had gone for defecation,
accused Deelip Kumar Singh caught her hand with bad intention and



on alarm raised by her, several persons assembled there and saved her modesty. Then the complainant went at the door of accused person to make complaint against Deelip Kumar Singh, his father made her to leave his door scolding her. It is further alleged that thereafter all the accused persons variously armed descended at the door of the complainant and slated and assaulted the complainant, her son and daughter-in-law with fists, slap and lathi and took away cash of Rs. 5000/- from her box.

During the course of enquiry complainant examined herself on S.A. and her three witnesses in buttress of her case.

On perusal of the records and materials available on the record the learned magistrate having found prima facie case against the petitioners under Sections 323, 341, 380/34 of the Indian Penal Code took cognizance in the case.

It is submitted by the learned counsel for the petitioners that the alleged occurrence had taken place on 31.7.2012 but the present complaint has been filed after one month of the alleged occurrence. It is further submitted by the learned counsel for the petitioners that petitioner no.3-Sudhir Kumar Singh was in Ambala at the time of alleged occurrence in connection with his service. It is also submitted by the learned counsel for the petitioners that earlier petitioner no.1 had filed a case against the family members of the complainant and police after investigation has submitted charge sheet



against the family members of the complainant in the said case.

After perusal of the complaint petition and the materials available on record, the learned Magistrate appears to have found prima facie case under Sections 323, 341, 380/34 of the Indian Penal Code against the petitioners and has taken cognizance in the case.

The case of the petitioners that earlier the petitioner no.1 had filed a case against the family members of the complainant as well as petitioner no.3, Sudhir Kumar Singh, was in Ambala at the time of alleged occurrence in connection with his service and there is one month delay in filing the complaint petition is required to be considered in the trial and not at the time of cognizance. Cognizance in the case is taken on the facts and circumstances of a particular case and is not effected by the defence version.

Considering the facts aforesaid, I do not find any illegality in the order of taking cognizance. Accordingly, this quashing petition is dismissed.

(Prakash Chandra Jaiswal, J)

singh/-

AFR/NAFR	NAFR
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