

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41790 of 2014

Arising Out of PS.Case No. -47 Year- 2013 Thana -SC/ST District- JAMUI

- =====
1. Umesh Kumar Yadav @ Umesh Yadav
 2. Bhusan Yadav
- Both are sons of Bishun yadav @Bishwanath Prasad Yadav
3. Nirmal Yadav Son of Ayodhya Yadav
 4. Bishun Yadav @ Bishwanath Yadav Son of Late Ayodhya Yadav
 5. Chandan Yadav Son of Bishun Yadav @ Bishwanath Prasad Yadav
 6. Shekhar Yadav Son of Nirmal Yadav
- All Resident of village Teliyadih, P.S.- Jhajha, District- Jamui

.... Petitioner/s

Versus

1. The State of Bihar
2. Fulo Devi wife of Mahesh Rajak Resident of village Teliyadih, P.S. - Jhajha, District- Jamui.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Sinha
For the Opposite Party/s : Mr. Sadanand Paswan, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 28-08-2017

This application under Section 482 of the Code of Criminal Procedure has been filed to quash the order dated 19.08.2013 passed by the learned Chief Judicial Magistrate in G.R. No. 1097 of 2013 arising out of Jamui S.C /S.T P.S. Case No. 47 of 2013 whereby and whereunder the learned C.J.M. took cognizance of offence against the petitioners.

2. Heard both sides.

3. The facts in brief is that the Opposite Party No. 2 lodged an F.I.R. with S.H.O. of SC/ST Police Station alleging inter alia that



on 30.06.2013 when she had gone to worship in Kali Temple, these petitioners intercepted and abused naming her caste. They spit on her face and threw her on the ground. They assaulted and partially made her naked and thereby, outraged her modesty.

4. The learned counsel for the petitioners submits that the informant (Opposite Party No. 2) is the resident of the same village. The petitioner No. 1 has purchased a land measuring 6 decimals of plot No. 916 in the name of his wife by virtue of the registered sale deed dated 23.09.2011. The informant has her land in the boundary of the land of petitioner No. 1. She has encroached some of the portion of his purchased land and on account of said encroachment, they are at litigating term. A proceeding under Sections 107 and 144 of the Cr.P.C. was also initiated between the parties. The informant in order to harass the petitioners has lodged this case with false allegation of abusing and assaulting. There is also a delay of four days in lodging the F.I.R. The learned Magistrate has taken cognizance without applying judicial mind and so, the impugned order is fit to be quashed.

5. The learned APP for the State opposed the submission.

6. On perusal of F.I.R, I find that the informant belongs to Scheduled Caste Community and she has lodged this case with a specific allegation that the accused persons abused naming her caste



and assaulted her in public view. The matter was enquired and police finding the case true have submitted charge-sheet against the petitioners. The learned Magistrate after going through the material in case diary and police report found prima facie case and accordingly, took cognizance under Sections 147, 148, 149, 341, 323, 354 and 504 of the Indian Penal Code and Section 3 (i)(iii)(x)(xi) of the SC/ST Act. The defence of the petitioners as regards false implication on account of land dispute cannot be taken into consideration at the time of taking cognizance. They will have liberty to raise their defence at the time of trial.

7. In view of the above facts, I do not find any merit this application and the same is accordingly dismissed.

(Sanjay Kumar, J)

ajay gupta/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.08.2017
Transmission Date	30.08.2017

