

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.52614 of 2013

Arising Out of PS.Case No. -123 Year- 2011 Thana -AGAMKUAN District- PATNA

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1. Shashi Kumar Son Of Sri Shailendra Rai Resident Of Village And Post
Ganghara, P.S. Shahpur, District - Patna
2. Manish Kumar Son Of Sri Bihari Rai Resident Of Village And Post
Ganghara, P.S. Shahpur, District - Patna

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dr. Ratan Kumar

For the Opposite Party/s : Mr. Mayanand Jha(App)

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 20-01-2017 The petitioner has preferred this application for quashing order dated 10.12.2011 passed by A.C.J.M., Patna City in Agam Kuan P.S. Case No.123 of 2011, whereby and whereunder cognizance has been taken against the petitioner for offence under Sections 448, 323, 379 and 504 of the Indian Penal code and Section 3 (X) of the S.C. & S.T. (Prevention of Atrocities) Act.

The prosecution story in short is that on the basis of the statement of the informant Prabhawati Devi, the present case has been lodged. As per the Fardbeyan of Prabhawati Devi 5-6 persons entered inside the house of the informant and assaulted her on head with 'rod' with ulterior motive and also snatched chain. It is also alleged that the accused persons beat his son Arun



Kumar, Pravin Kumar and her husband Lalan Ram as well and when they were going back on the road, they threatened the petitioner “*Sala Chamar Sab Kiya Kar Lega*” and they also threatened to kill them.

On the basis of the aforesaid statement of the informant, Prabhawati Devi, Agam Kuan P.S. Case No.123 of 2011 has been instituted under Sections 448, 323, 379 and 504 of the Indian Penal code and Section 3 (X) of the S.C. & S.T. (Prevention of Atrocities) Act and the police, after investigation, has submitted charge-sheet against the petitioner under Sections 448, 323, 379 and 504 of the Indian Penal code and Section 3 (X) of the S.C. & S.T. (Prevention of Atrocities) Act. It further appears from perusal of the record that the A.C.J.M., Patna City, after submission of the charge-sheet, has taken cognizance against the petitioners for the offence under Sections 448, 323, 379 and 504 of the Indian Penal code and Section 3 (X) of the S.C. & S.T. (Prevention of Atrocities) Act.

The aforesaid order taking cognizance is under challenge before this court by filing this application..

It has been submitted on behalf of the petitioners that no case is made out under Sections 379 and 504 of the Indian Penal Code and Section 3 (X) of the S.C. & S.T. (Prevention of



Atrocities) Act, against the petitioners. It has also been submitted that there is no specific allegation of assault mentioned in the F.I.R., even though some allegations have been made about S.C. & S.T. (Prevention of Atrocities) Act but who had uttered the above words, is not mentioned in the F.I.R. It is further submitted on behalf of the petitioners that as a matter of fact, sons of the informant were showing that their father is an army official and on that pretext, they were taking money from the unemployed youths in the name of providing them job but when the job was not provided to those unemployed youth they started putting pressure on the son of informant, who in order to save them got the cases filed through his mother against all those including the present case and as such there is nothing in the case but the learned A.C.J.M., Patna City without appreciating the facts and circumstances of the case, had taken cognizance in the present case in a very mechanical manner, which is not sustainable in the eye of law.

Heard learned A.P.P. also, who opposes the application filed by the petitioner stating that there is nothing in this case showing any illegality in the order taking cognizance as after submission of the charge-sheet, on the basis of materials available on the record, the learned A.C.J.M., Patna City has taken



cognizance against the petitioners, hence, this application is fit to be dismissed.

Having heard both sides. From perusal of the record, as well as F.I.R. it appears that there is no specific allegation against the petitioners about the offences under Sections 448, 323, 379 and 504 of the Indian Penal code and Section 3 (X) of the S.C. & S.T. (Prevention of Atrocities) Act. So far statement of the petitioners that no specific allegation has been attributed against them and there are some ulterior motive for filing this application is concerned, in my opinion, this is at the appropriate stage to consider the same.

Accordingly, this application is dismissed.

(Vinod Kumar Sinha, J)

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