

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53615 of 2013

Arising Out of PS.Case No. -369 Year- 2010 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Lakhindra Yadav @ Dhani Chand Yadav Son Of Sri Vairagi Yadav
Resident Of Village- Jitan Chhapra, P.S.- Rani Talab, District- Patna

2. Krishna Yadav Son Of Sri Vairagi Yadav Resident Of Village- Jitan
Chhapra, P.S.- Rani Talab, District- Patna

3. Manoj Yadav Son Of Sri Krishna Yadav Resident Of Village- Jitan
Chhapra, P.S.- Rani Talab, District- Patna

4. Badak Yadav Son Of Late Jagarnath Yadav Resident Of Village- Jitan
Chhapra, P.S.- Rani Talab, District- Patna

5. Mishri Yadav Son Of Late Badari Yadav Resident Of Village- Jitan
Chhapra, P.S.- Rani Talab, District- Patna

6. Nand Bihari Yadav @ Shayam Bihari Yadav Son Of Mushahar Yadav
Resident Of Village- Jitan Chhapra, P.S.- Rani Talab, District- Patna

7. Lal Vijay Yadav Son Of Sri Saryug Yadav Resident Of Village- Jitan
Chhapra, P.S.- Rani Talab, District- Patna

8. Kamta Yadav Son Of Late Munarik Yadav Resident Of Village- Jitan
Chhapra, P.S.- Rani Talab, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar

2. Shiv Shankar Paswan Son Of Late Bhikhari Paswan Resident Of Village-
Saraiya, P.S.- Rani Talab, District- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar

For the Opposite Party/s : Mr. Binay Krishna (App)

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 02-02-2017

Heard the parties,

Petitioners seek quashing of the order dated 19.08.2010,
passed by A.D.J. -1st –in-charge SC/ST (Prevention of Atrocities)
Act, Patna in Special Case No. 15/13 (arising out of Complaint



Case No. 369 (C) 2010) for offences punishable under Sections 147, 148 and 379 of the Indian Penal Code and Section 3(iv) (v) and (viii) SC/ST (Prevention of Atrocities) Act.

Prosecution case as per complaint petition is that the complainant belongs is a poor man belongs to SC/ST category. The alleged land in dispute was allotted to the complainant along with 54 persons by the State, thereafter, the complainant started cultivating the said land and on the alleged date of occurrence at about 7 P.M., when the complainant went to see the cultivated plant, accused persons came there variously armed and started destroying the plants cultivated by the complainant and on protest being made, the accused persons threatened the complainant at the point of gun. The complainant somehow managed to escape the place of occurrence.

On the basis of the aforesaid occurrence, Complaint Case No. 369(C) of 2010, came to be registered and the same was sent to the enquiry and after enquiry the learned Court below find a *prima facie* case against the petitioners under Sections 147, 148, and 379 of the Indian Penal Code and Section 3(iv)(v) and (viii) of SC/ST (Prevention of Atrocities) Act, and ordered for issuance of processes against these petitioners.



The petitioners have challenged the order issuing process in this application, filed under Section 482 of the Cr.P.C.

It has been submitted by learned counsel for the petitioners that they have falsely been implicated by the complainant in the present case at the instance of village politics. It has further been submitted that even from a bare perusal of complaint petition itself, no case under Section 3(iv)(v) and (viii) of SC/ST (Prevention of Atrocities) Act, is made out and these Sections have been added only to make the offence graver and as such the order issuing process against the petitioners is bad in law and a clear abuse of process of the Court.

Learned counsel for the State has opposed the application and submitted that learned Court below only after considering the materials collected during the course of enquiry, has ordered for issuance of process and there is nothing illegal in the said order.

Having heard both sides, in view of the facts stated in the complaint petition and the materials available on record and also on perusal of the impugned order, at this stage, I am not inclined to interfere with the order dated 19.08.2010, passed by A.D.J. -1st –in-charge SC/ST (Prevention of Atrocities) Act, Patna in Special Case No. 15/13 (arising out of Complaint Case No. 369 (C) 2010).



However, the petitioners will be at liberty to raise all these points at an appropriate stage and if any such application is filed, the learned Court below shall disposed of the same by a reasoned and speaking order.

With the above observation, this application is disposed of.

(Vinod Kumar Sinha, J)

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