

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.58327 of 2017

Arising Out of PS.Case No. -127 Year- 2017 Thana -BASANTPUR District- SIWAN

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1. Rama Rai @ Rama Yadav S/o Late Hardeo Yadav R/o Village - Baswasn Naya Tola, P.S. - Basantpur, District - Siwan.
 2. SK Allauddin @ Allauddin S/o Sk Abbas @ Abbas Mian R/o Village - Basawan Sheikh Rafi Tola, P.S. - Basantpur, District - Siwan.
 3. Amit Singh S/o Late Nand Kishore Singh R/o Village - Basawan Tola, P.S. - Basantpur, District - Siwan.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gajendra Kumar Singh, Advocate.

For the Opposite Party/s : Mr. Vivek Prasad (Gp 7), A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

3 02-08-2018 Heard learned counsel for the petitioners and learned counsel for the State.

This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioners for quashing the FIR of Basantpur P.S.Case No.127 of 2017 registered for the offences punishable under Sections 272, 273 & 308 of the Indian Penal Code and Section 30 (a) (d) and 38 of the Bihar Prohibition and Excise Act, 2016 instituted on the basis of self-statement of S.H.O. of Basantpur Police Station against the petitioners and others.

It is contended by the learned counsel for the petitioners



that though the offences alleged in the FIR are made out against some of the accused persons, on the basis of allegations made in the FIR, it cannot be said that the petitioners were also involved in the commission of the offence. He submitted that the petitioners are being prosecuted merely because illicit *mahua* wine was found concealed in the field of several persons including the petitioners.

On the other hand, learned counsel appearing on behalf of the State submitted that the allegations made in the FIR would clearly attract ingredients of the offences alleged. He contended that once a cognizable offence is attracted it is the bounden duty of the police to institute an FIR and investigate the same. He pleaded that the defence taken by the petitioners cannot be a ground for interdicting the investigation of the case at the initial stage.

I have heard learned counsel for the parties and carefully perused the record.

The allegations made in the FIR do attract the ingredients of a cognizable offence. In that view of the matter, no illegality can be found with the action of the police in institution of the FIR. As far as the involvement of the petitioners in the alleged offence is concerned, at this stage, it would not be proper for this Court to give any finding in that regard.

In that view of the matter, I see no merit in this



application. The application is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/Sneha

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