

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27409 of 2014

Arising Out of PS.Case No. -110 Year- 2011 Thana -DARIHAT District- SASARAM (ROHTAS)

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1. Suresh Kumar Singh Son of Late Girja Singh The then S.H.O., Darihat Police Station, District - Rohtas
 2. Antesh Kumar Singh Son of Late Jagarnath Singh The then A.S.I., Darihat Police Station, District - Rohtas
 3. Vikash Rai alias Bhattjee Son of Sri Kashinath Rai The then Driver of Police Jeep, P.S. - Darihat, District - Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar
2. Sanjay Kumar Ram Son of Sri Barak Ram Resident of Village - Paduhar, P.S. - Darihat, District - Rohtas

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sudama Singh, Adv
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date: 08-01-2018

The petitioners, who are members of the police force, have challenged the orders dated 29.08.2012 and 17.05.2014, by which the cognizance has been taken against the petitioners by learned Judicial Magistrate, Dehri, Rohtas in connection with Complaint Case No. 110 of 2011, under Sections 323, 504 and 380 of the Indian Penal Code and which order has been confirmed by the learned Ad-hoc Additional Sessions Judge-IV, Rohtas at Sasaram.

The allegations against the petitioners in the complaint are of having entered the house of the complainant in the absence of male members of the family and of having abused and



assaulted the members of the family. The petitioners are also alleged to have taken away the belongings of the family members of the complainant/opposite party No. 2.

Mr. Sudama Singh, learned counsel for the petitioners has drawn the attention of this Court to Annexure-2 which is the F.I.R lodged on 26.01.2011 on the basis of self statement of Sub-Inspector of Police, Suresh Kumar Singh, who is petitioner No. 1 in the present case. The house of the uncle of the complainant/opposite party No. 2 was raided on secret information and a country made pistol was recovered from the possession of one Kamlesh. From the perusal of the F.I.R contained in Annexure-2, it would appear that the date of raid is 26.01.2011, whereas in the complaint also, the same date of occurrence has been stated. It appears that only because the uncle of the complainant/opposite party No. 2 was arrested and a country made weapon was recovered from his possession, that the present complaint has been lodged. Though the witnesses in the enquiry under Section 202 Cr.P.C. have supported the factum of petitioners having entered the house of the complainant/opposite party No. 2 unauthorizedly, but the allegations and the depositions of the witnesses do not inspire confidence in view of the aforestated circumstance. The revisional Court has recounted the requirement of law that a case cannot be quashed, if on face of it,



the allegations make out a case and that quashing is only permissible when the allegations are patently wrong and absurd, but he has not applied the aforesaid principle to the facts of this case.

Considering the aforestated facts, the order dated 29.08.2012, whereby cognizance under Sections 323, 504 and 380 of the Indian Penal Code has been taken against the petitioners by learned Judicial Magistrate, Dehri, Rohtas in connection with Complaint Case No. 110 of 2011 as well as the order dated 17.05.2014 passed by learned Ad-hoc-Additional Sessions Judge, IV, Rohtas at Sasaram, whereby the order of cognizance has been confirmed, are set aside.

The petition stands allowed.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10/01/2018
Transmission Date	10/01/2018

