

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43468 of 2014

Arising Out of PS.Case No. -70 Year- 2011 Thana -MURLIGANJ District- MADHEPURA

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1. Shyam Narayan Yadav son of Late Fanilal Yadav
 2. Jhalo Yadav son of Shyam Narayan Yadav
 3. Pappu Yadav son of Shyam Narayan Yadav
 4. Siken Yadav son of Upendra Yadav
 5. Mithlesh Yadav son of Upendra Yadav All residents of village - Dwarika Tola (Bhatkhora), Police Station Murliganj, District - Madhepura
 6. Sunil Kumar son of Arun Yadav resident of village - Santnagar, Poice Station Murliganj, District - Madhepura

.... Petitioner/s

Versus

1. The State of Bihar
2. Sachidanand Yadav son of Jay Krishna Yadav resident of Village - Bhatkhora Tola - Dwarika Tola, Police Station Murliganj, District - Madhepura

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Durgesh Kumar, Advocate

For the Opposite Party/s : Ms. Pushpa Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 21-03-2018

Heard counsel for the petitioners and the State.

2. Petitioners have challenged the order taking cognizance dated 12.08.2011 in Murliganj P.S. Case No. 70 of 2011 as well as the order dated 26.06.2013 passed in Criminal Revision no. 58 of 2012 whereby the learned Additional Sessions Judge Adhoc II, Madhepura has affirmed the said order taking cognizance.

3. Submission of the petitioners' counsel is that there is case and counter case and that the petitioners have falsely been



implicated in this case. Other submission is that the offence under Section 307 IPC in respect of which cognizance has been taken is not attracted in the instant case as no such offence has been made out.

4. As regards the first submission, this Court finds that the petitioners are relying upon lodging of the Complaint Case no. 331 of 2011 by petitioner no. 1, Shyam Narayan Yadav. The said complaint case has been lodged on 17.05.2011 after lodging of the FIR dated 16.05.2011 in which the instant petitioners have been made accused. The earlier FIR bearing Murliganj P.S. Case No. 70 of 2011 in which the petitioners have been made accused cannot be said to be in retaliation by way of false implication on extraneous consideration as the said complaint case is later in time. The other allegation regarding the offence under Section 307 IPC is not made out.

5. This Court observes that the same may be look into at the appropriate stage by the learned court below in accordance with law as this Court in exercise of jurisdiction under Section 482 Cr. P.C., cannot look into the factual denial in respect of the allegation made by the petitioner.

6. The application is dismissed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	22.03.2018
Transmission Date	

