

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15889 of 2015

Arising Out of PS. Case No.-1132 Year-2013 Thana- AURANGABAD COMPLAINT CASE
District- Aurangabad

-
1. Sumitra Devi, Wife of Sri Sunil Ram,
 2. Chandravati Devi @ Chandavati Devi, Wife of Sri Mahendra Ram
 3. Sunil Ram @ Sunil Kumar, Son of Sri Mahendra Ram
 4. Arvind Ram @ Arvind Kumar, Son of Sri Mahendra Ram
 5. Anil Ram @ Anil Kumar, Son of Sri Mahendra Ram
 6. Mahendra Ram, Son of Sri Matukdhari Ram,
- All are residents of village - Hajari Karma, P.O. Rambilash Nagar Bharthauli, P.S. Aurangabad Muffasil, District – Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Kamla Devi Wife of Sri Rajkumar Ram, resident of village - Hajari Karma, P.O. Rambilash Nagar Bharthauli, P.S. Aurangabad Muffasil, District – Aurangabad.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manish Kumar No 13, Advocate Mr. Rohit Kumar, Advocate
For the Opposite Party/s	:	Ms. Rita Verma (APP)

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 04-04-2018

Seeking quashing of a complaint registered by the learned Judicial Magistrate, 1st Class, Aurangabad in complaint case No.1132 of 2013 and challenging cognizance order dated 21.01.2015 for offences under Sections 323, 379 and 504 of the Indian Penal Code, this application has been filed.

Having heard learned counsel for the petitioners, it is seen that the complainant-opposite party no.2 Kamla Devi had made complaint with regard to the petitioners entering her house,



abusing her, trying to assault her and with various other allegations. It is stated that there is a dispute regarding agreement to sale between the parties and due to that, the petitioners have been falsely implicated.

However, at this stage in a proceeding under Section 482 of the Code of Criminal Procedure, this Court cannot record a finding that the petitioners have been falsely implicated for the simple reason that the complainant has testified before the Court below with regard to incident in question and two witnesses E.W.1 Kanhai Ram and E.W.2 Sunita Kumari along with E.W.3 Anuj Kumar have supported the case of the complainant and cognizance has been taken after evaluating the prima facie material that came on record. The fact as to whether the complaint case is tenable, admissible on a false assertion made against the petitioner cannot be enquired into in these proceedings under Section 482 of the Code of Criminal Procedure. It is for the petitioners to raise objection before the Court below and the Court below to examine everything, evaluate the evidence at the time of enquiry and thereafter discharge the petitioners in case, it is found that a false complaint has been made. On a bare reading of the evidence that has come on record, this Court finds it difficult to exercise its extra-ordinary jurisdiction under Section 482 of the Code of



Criminal Procedure and record a finding that a false case has been lodged against the petitioners.

Accordingly, finding the case beyond the jurisdiction under Section 482 of the Code of Criminal Procedure, the application stands dismissed with liberty to the petitioners to raise all the grounds as are permissible before the Court below. It may be cautioned and observed that this Court has not gone into the merits of the allegations and has only found the *prima facie* case based on the material available on record and the Court below shall proceed in the matter without being influenced by the order passed in these proceedings.

(Rajendra Menon, CJ)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.04.2018
Transmission Date	11.04.2018

