

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19967 of 2014

Arising Out of PS.Case No. -119 Year- 2012 Thana -DHANAHAN District-
WESTCHAMPARAN(BETTIAH)

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1. Nathuni Chouhan, son of Shiv Mangal Chouhan
2. Prabhu Chouhan @ Prabhu Nath Chauhan, Son of Ram Bali Chouhan
3. Dahari Chouhan
4. Yogendra Chouhan
5. Pramod Chouhan

All sons of Late Bauk Chouhan

6. Ram Swarup Chouhan, Son of Late Jagar Nath Chouhan
7. Gori Chouhan Son of Late Teras Chouhan
8. Tilakdhari Chouhan, Son of Late Dalip Chouhan
9. Prahalad Chouhan, Son of Late Dal Singar Chouhan

All resident of village- Barawa, Police Station- Dhanaha, District- West Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Moti Lal Ram, Son of Mohar Ram, resident of village- Barawa, Police Station-
Dhanaha, District- West Champaran

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Milind Kumar Mishra, Advocate.

For the Opposite Party/s : Mr. Ram Shankar Das, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 14-05-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 11.02.2013 passed by the learned Judicial Magistrate, 1st Class, Bagaha, West Champaran, in Dhanaha P.S. Case No. 119 of 2012 by which the learned Magistrate took cognizance against the petitioners for the offences under Sections 147, 447, 323, 325, 504 of the Indian Penal Code and Sections 3 (1)(X) of SC/ST Act.



2. Heard learned counsel for the petitioners and learned counsel for the State.

3. Learned counsel for the petitioners has submitted that in the case diary witnesses have not supported the allegation against the petitioners with regard to SC/ST Act.

4. Learned counsel for the Opposite Party No. 2 has appeared and submitted that there is specific allegation in the written report that these petitioners abused the informant by calling his caste name and also assaulted him and his family members.

5. The police after investigation has submitted charge sheet against the petitioners for the offence under Sections 147, 447, 323, 325, 504 of the Indian Penal Code and Sections 3(1)(x) of SC/ST Act.

6. The informant in his further statement made in paragraph-5 of the case diary has supported the case as mentioned in the written report.

7. From the statement of the witnesses in the case diary and the allegation in the written report it appears that witnesses have supported the case of Informant. It further appears from the written report that informant has levelled specific allegation against the petitioners of abusing the informant by calling his caste name and also assaulting the informant and his family members.



8. The learned Magistrate is only required to see the *prima facie* case at the time of taking cognizance. The court below after looking into the allegation and the statement of the witnesses in the case diary has taken cognizance after submission of charge sheet by the police, against the petitioners, for the offence under Sections 147, 447, 323, 325, 504 of the Indian Penal Code, Sections 3(i)(x) of SC and ST Act.

9. Therefore, this Court does not find any illegality in the impugned order.

10. The application stands disposed off with liberty to the petitioners to raise all the points as raised in this Criminal Miscellaneous application at appropriate stage in the court below either at the time of framing of charge or during trial which shall be considered by the court below in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	22/05/2018
Transmission Date	22/05/2018

