

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32097 of 2016

Arising Out of PS.Case No. -78 Year- 2015 Thana -BASANTPUR District- SIWAN

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1. Haricharan Ram, S/o Late Raghunath Ram, R/o Village- Kanhauli, P.S.- Basantpur, District- Siwan.
 2. Raju Ram S/o Hari Charan Ram, R/o Village- Kanhauli, P.S.- Basantpur, District- Siwan.
 3. Kalawati Devi, W/o Haricharan Ram, R/o Village- Kanhauli, P.S.- Basantpur, District- Siwan.
 4. Usha Kiran Kunwar, W/o Late Ajay Ram, R/o Village- Kanhauli, P.S.- Basantpur, District- Siwan.
 5. Champa Devi, W/o Raju Ram, R/o Village- Kanhauli, P.S.- Basantpur, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajeet Singh, Advocate.

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 05-07-2018

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

2. This application under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') has been filed by the petitioners for quashing the order dated 18.08.2015 passed by the learned Judicial Magistrate, 1st Class, Siwan, in Trial No.2095 of 2016, arising out of Basantpur P.S. Case No. 78 of 2015.

3. Learned counsel for the petitioners submitted that there is no material on the basis of which the learned Magistrate could have taken cognizance of the offences punishable under Sections 147, 148,



341, 323, 353 & 504 of the Indian Penal Code. He submitted that the land in dispute belongs to the petitioner and no occurrence as alleged had taken place on the relevant date.

4. On the other hand, learned counsel for the State submitted that there is specific allegation in the First Information Report instituted on the basis of written report submitted by the Sub-Inspector of Police in which it has been alleged that on 18.05.2015 at 8.30 a.m. when the police party arrived at the place of occurrence, all accused persons being variously armed with *tangi*, iron rod, *lathi* and *danda* attacked upon the police party and in the assault made by the one of the petitioners Haricharan Ram, he received sharp cut injury on his hand. The assault made by the petitioner Raju Ram with iron rod caused injury on the head of the Officer-in-Charge of the Police Station and rest of the accused also assaulted the police party with *lathi*. In course of investigation, the allegations made in the First Information Report were found to be true and, on completion of investigation, charge sheet was submitted. He submitted that no fault can be found with the order impugned whereby the learned Magistrate has taken cognizance of the offences alleged.

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

6. I find substance in the submission made by the learned



counsel for the State. There is specific allegation made against the petitioners in the FIR regarding the role played by each of them in attack upon of the police party. The allegation made in the F.I.R were investigated upon and found true. On receipt of the police report submitted under Section 173(2) of Cr.P.C., after perusing the statements of the witnesses recorded under Section 161 of the Cr.P.C., the learned Magistrate found prima facie material to proceed against the petitioners. In that view of the matter, it has rightly been submitted by the learned counsel for the State that no fault can be found with the order impugned.

7. Accordingly, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/Sneha /

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	06-07-2018
Transmission Date	06-07-2018

