

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.244 of 2016

Arising Out of PS. Case No.-2909 Year-2011 Thana- PURNIA COMPLAINT CASE District-
Purnia

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1. Lakhan Chouhan son of Late Jangli Chouhan
 2. Bishvanath Chouhan son of Late Jattan Chouhan
 3. Dasrath Chouhan son of Late Raspati Chouhan
 4. Sudhir Chouhan son of Sri Dasrath Chouhan
 5. Maya Devi wife of Dasrath Chouhan All resident of village-
Nikhraail, P.S. Dagarua, District- Purnia

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shiv Nath Chouhan son of Late Jagdeo Chouhan, resident of village-
Nikhraail, P.S. Dagarua, District- Purnia

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Anis Akhtar, Advocate.
For the Opposite Party/s : Dr. Rabindra Kumar APP

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 13-08-2018

Petitioners have assailed the order dated 9-10-2015 passed by learned Additional Sessions Judge- IV, Purnia in Cr. Rev. no. 343 of 2013 by which revision application preferred by the petitioners against the cognizance order dated 05.07.2013 has been rejected and also to quash the order dated 5.7.2013 passed by learned Judicial Magistrate 1st Class Purnia in complaint case no. 2909 of 2011 by which learned Magistrate has taken cognizance against the petitioners for the offence under Sections 147 and 323 of the Indian Penal Code.

Heard learned counsel for the petitioners and learned



counsel for the State.

Learned counsel for the petitioners has submitted that offence under Sections 147 and 323 of the IPC was triable by Gram Kutchery and without cancelling the jurisdiction of the Gram Kutchery the impugned order has been passed.

This Court after looking into the impugned order finds that learned Magistrate has on the basis of complaint filed by the complainant after recording S.A. of the complainant and statement of other enquiry witnesses has found *prima facie* case for the offence under Sections 341 and 323 of the IPC against the petitioners and ordered to issue summon under Section 204 Cr. P.C.

It was the choice of complainant either to approach the Gram Kutchery or to approach the Court. There is no requirement in law that it was mandatory for the complainant to approach the Gram Kutchery. The jurisdiction of criminal court to hear such case does not cease.

Section 113 of Bihar Panchayat Raj Act, 2006 speaks that no court to take cognizance of case or suits taken cognizance by a bench of the Gram Katchahry. -(1) Notwithstanding anything contained in any law for the time being in force, no court shall take cognizance of any case or suit



which is cognizable under the Act by a bench of the Gram Katchahry. (2) Every information relating to the commission of an offence triable by a bench of the Gram Katchahry given to an Officer-In-Charge of a police station shall be reported within fifteen days of the receipt of the information to the bench of the Gram Katchahry in the jurisdiction of which the offence has been committed. (3) When a case relating to any offence triable by a bench of the Gram Katchahry is pending before such bench and a charge sheet is submitted by Police Officer, or a complaint is made to any Magistrate in respect of the same offence, such Police Officer or the complainant shall mention in the charge-sheet or the complaint petition, as the case may be, that such a case is so pending and in such circumstances the concerned Magistrate shall direct the bench of the Gram Katchahry to proceed with the trial of the case.”

In the instant case, admittedly no case was pending before Gram Kutchery.

The learned Court below has on the basis of complaint filed by the complainant held enquiry under Section 202 of the Cr. P. C. and found *prima facie* case for the offence under Sections 341 and 323 of the IPC against the petitioners. The petitioners have filed revision application which was also



dismissed by the learned Additional District and Sessions Judge-IV by order dated 9.10.2015 passed in Cr. Rev no. 343 of 2013 by speaking order.

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

This Cr. Misc. application is, accordingly, dismissed.

The Court below will proceed in the case in accordance with law.

(Sanjay Priya, J)

shyambihari/-

AFR/AFR	AFR
CAV DATE	N/A
Uploading Date	29.8.2018
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