

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.21141 of 2017

Arising Out of PS.Case No. -136 Year- 2016 Thana -AMAU District- PURNIA

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1. Ajay Kumar @ Ajay Kumar Sah S/o Ram Chandra Sah
 2. Ram Chandra Sah S/o Late Bishun Dev Sah
 3. Asha Devi W/o Ram Chandra Sah

All Resident of Amaur, P.S.- Amaur, District- Purnia.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Hemant Kumar, Advocate
For the Opposite Party/s : Mr. Kanhaiya Kishore, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 30-01-2018

This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioners for quashing the order dated 03.02.2017 passed by the learned ACJM-VI, Purnia in Amaur P. S. Case No. 136 of 2016 by which cognizance has been taken for the offences punishable under Sections 341, 323, 354, 307 and 427 read with 34 of the Indian Penal Code and the petitioners have been summoned to face trial.

2. The petitioners are named in the FIR. There is allegation that they assaulted the son of the informant and when the informant intervened, they badly assaulted her, as a result of which



she sustained serious injuries over her head, back and eyes and when she fell down they tried to strangle her to death. They also took away her gold chain and outraged her modesty.

3. On completion of investigation, the investigating officer found the accusation made in the FIR to be true and submitted charge-sheet against the petitioners.

4. Having perused the FIR, the statement of witnesses recorded under Section 161(3) of the Cr.P.C. and the police report submitted under Section 173(2) of the Cr.P.C., the learned Magistrate found sufficient material to take cognizance of the offence. Accordingly, he took cognizance of the offences punishable under Sections 341, 323, 354, 307 and 427 read with 34 of the Indian Penal Code and summoned the petitioners to face trial.

5. The contention of the petitioners is that since the injuries found on the person of the victim were not grievous, the order taking cognizance is bad in law, as the ingredients of the offence punishable under Section 307 of the Indian Penal Code are not attracted.

6. In my opinion, the point urged on behalf of the petitioners is totally misconceived. Whether or not the materials collected during investigation are sufficient for framing of charge



under a particular provision of law is to be seen at the stage of framing of charge and not at the stage of taking cognizance. At the stage of taking cognizance of the offence, the Magistrate is required to see as to whether any *prima facie* case is made out or not. It is not even the case of the petitioners that no *prima facie* case is made out in the present case.

7. In that view of the matter, I see no merit in this application. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
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