

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.535 of 2017

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1. Rajeev Kumar Pandey
2. Manoj Kumar Both Sons of Saryug Pandey Resident of Village-Post
Office and Police Station-Deepnagar, District-Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director General-cum-Inspector General of Police, Bihar, Patna.
3. The Superintendent of Police, Nalanda.
4. The Deputy Superintendent of Police, Nalanda.
5. The Inspector-cum-S.H.O., Deepnagar Police Station, Nalanda.
6. Smt. Seema bano, Wife of Md. Akhtar Hussain, Incharge Headmistress,
D.P. Rai +2, High School, Deepnagar, Korai, Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Mishra, Adv.

For the Respondent/s : Mr. Md. Nadeem Seraj (Gp-5)

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN
PRASAD**

ORAL ORDER

4 10-08-2018 Heard learned counsel for the petitioner and learned
AC to GP-5.

The petitioner has moved this Court with a complaint
that the representation made by them to the senior police officers
in connection with Deepnagar P.S.Case No.47 of 2017 registered
under Sections 384, 504 and 509 of the Indian Penal Code has not
been attended to, instead the petitioners have been charge-sheeted
in the said case.

Learned counsel representing the State submits that a
bare perusal of the pleadings available in the writ application and



the prayer made therein would show that the petitioners are not challenging either the First Information Report or the order taking cognizance and issuance of summons against them. Learned counsel submits that in course of investigation, police has found the case true against the present petitioners and, accordingly, charge-sheet was submitted and the learned C.J.M. having been satisfied with the materials placed before him was of the opinion that a prima facie case is made out, therefore, the petitioners have been summoned by the learned Court below.

In these circumstances, the petitioners may avail their remedy under the Code of Criminal Procedure but nothing remains for adjudication by this Court sitting in its constitutional jurisdiction under Article 226 of the Constitution of India.

Having heard learned counsel for the parties, I find force in the submission of learned counsel representing the State. It is an admitted position that the case in question has already been investigated and after filing of charge-sheet the learned Court below has taken cognizance and the petitioners have been summoned in the said case. If it is so, on challenging the order taking cognizance and issuance of summon the remedy of the petitioners lies under Code of Criminal Procedure and not under Article 226 of the Constitution of India.

The writ application is, thus, disposed off with liberty



to the petitioners to seek their remedy, if so advised under the
Code of Criminal Procedure.

(Rajeev Ranjan Prasad, J)

Arvind/R.R.Ojha/Ved

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