

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37878 of 2018

Arising Out of PS.Case No. -164 Year- 2017 Thana -KALYANPUR District- SAMASTIPUR

- =====
1. Ajit Kumar S/o Basant Lal Sah,
 2. Basant Lal Sah S/o Late Hari Chandra Sah,
 3. Meena Devi W/o Ajit Sah, All are Residents of Ward no. 02, Vill.-
Gopalpur, P.S.- Kalyanpur, District- Samastipur, PIN-848102.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prem Kumar

For the Opposite Party/s : Mr. Dr. Indihar Kumari

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

02/ 04-07-2018

Heard learned counsel for the petitioners and

learned APP for the State.

The petitioners are apprehending their arrest
in a case registered for the offences punishable under Sections
323, 326, 341, 354, 379 and 504/34 of the Indian Penal Code.

The prosecution case as per the written report
of Annu Shah submitted to the Station House Officer, Kalyanpur
P.S. is to the effect that the informant is an elected Panch of
Gram Kutchery, Gopalpur and on 29.10.2017 at 8.00 A.M. when
the informant was cleaning her door, in the meantime, the
accused persons including the petitioners came, variously armed
and started abusing the informant. On protest being made



petitioner no. 1 Ajit Kumar assaulted the informant with danda, while petitioner nos. 2 and 3 started assaulting with fists and slaps. On alarm being raised when the husband of the informant came to rescue her, petitioner no. 1, Ajit Kumar assaulted with knife causing injury to the husband of the informant. It is further alleged that petitioner no. 2 Basant Lal Sah and petitioner no. 3 Meena Devi assaulted the husband of the informant with lathi. Subsequently, petitioner no. 1 dragged the informant by catching hold of her and on arrival of the local people, the accused persons escaped from the scene.

It is submitted by learned counsel for the petitioners that in the background of a petty dispute the accusation has been levelled. No injury has been found to be grievous, hence, no offence under Section 326 of the I.P.C. is made out. Moreover, even assuming the accusation to be true, no offence under Section 354 of the I.P.C. is made out and accusation under Section 379 of the I.P.C. is cosmetic in nature. It is further submitted that for the occurrence of 29.10.2017, the FIR was registered on 01.11.2017 which reached to the Court of learned C.J.M. on 03.11.2017.

Learned APP, however, submits that the petitioners are named in the FIR.



Considering the delayed lodging of the FIR by the informant being an elected representative of the Panchayat, as well as its delayed transmission to the Court of learned C.J.M., the bonafide of the accusation gets clouded, coupled with the statement made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent, let the above named petitioners be released on anticipatory bail in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Samastipur in connection with Kalyanpur P.S. Case No. 164 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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