

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39354 of 2018

Arising Out of PS. Case No.-225 Year-2017 Thana- MANSI District- Khagaria

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1. Naresh Yadav,
 2. Lakshman Yadav,
 3. Vishwanath Yadav, All are sons of Late Sitaram Yadav,
 4. Amarjeet Yadav,
 5. Bittu Kumar, Both are sons of Naresh Yadav, All are resident of Village- Matihani, Ward No.7, Police Station- Mansi, District- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Viveka Nandsingh

For the Opposite Party/s : Mr. Akhileshwar Dayal

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 09-07-2018 Heard learned counsels for the parties.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 147, 148, 149, 341, 323, 354(B), 325, 379, 447, 504 and 509 of the IPC.

The prosecution case as per the written report of Madhu Devi, submitted to the D.I.G. of Police, Munger Range, is to the effect that on 03.09.2017, the petitioners, variously armed, came to the informant's house and they started blocking the pathway of the informant. The accused persons threatened to outrage the modesty of the informant. On protest being made, upon the order of petitioner no. 1, Naresh Yadav, all the accused persons started assaulting the informant. Consequently, the informant entered



into her house when petitioner no. 5, Bittu Kumar pulled her saree and all the accused persons tried to push her down. When the informant did not fell down, petitioner no. 4, Amarjeet Yadav assaulted her with khanti, on the right elbow of the informant and when daughter-in-law of the informant came to rescue her, she was also assaulted by the accused persons. It is further alleged that petitioner no. 5, Bittu Kumar snatched the gold chain from the daughter-in-law of the informant. When the son of the informant came to rescue them, the accused persons also assaulted him.

It is submitted by learned counsel for the petitioners that petitioner nos. 1,2 and 3 are brothers and petitioner nos. 4 and 5 are sons of petitioner no. 1, Naresh Yadav. The informant's husband, namely, Rabin Yadav is the son of own brother of petitioner nos. 1 to 3. In the background of land dispute, the accusation has been levelled against the petitioners. For the occurrence of 03.09.2017, the written report was submitted on 20.09.2017 but the FIR was registered on 24.09.2017. The accusation of assault is omnibus and general and the informant received only one injury. Moreover, the informant was examined after twenty one days of the occurrence. It is further submitted that prior to the lodging of the present case, petitioner no. 1 filed



Complaint Case No. 783 of 2017 in the Court of the learned CJM, Khagaria against the husband of the informant, namely, Rabin Yadav with accusation under Sections 323, 384, 448, 148, 379, 450 and 307/34 of the IPC. Subsequently, conclusion of investigation, charge-sheet was submitted against petitioner nos. 1 to 4 under bailable offences, i.e., under Sections 341, 323, 325, 447 and 504/34 of the IPC whereas petitioner no. 5 was not sent up for trial but differing with the final form, the learned Chief Judicial Magistrate vide order dated 20.03.2018, directed for issuance of process after cognizance being taken for the offences punishable under Sections 147, 148, 149, 341, 323, 325, 354B, 379, 447 and 504 of the IPC.

Learned APP submits that there is specific accusation against the petitioners.

Considering the genesis of the occurrence, delayed lodging of the written report and on conclusion of investigation, the case was found to be true for the non-bailable offences against only petitioner no. 5, coupled with the statement made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent, let the petitioners above named be released on anticipatory bail in the event of arrest or surrender within 12 weeks on furnishing bail bond of Rs. 10,000/- (ten



thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Khagaria in connection with Mansi P.S. Case No. 225 of 2017 subject to the conditions laid down in Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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