

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12228 of 2015**

Arising Out of PS. Case No.-165 Year-2008 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

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1. Surendra Rai and Ors Son of Late Ram Bharosa Rai
 2. Bacha Rai Son of Late Ram Bharosa Rai
 3. Veer Mohan Rai Son of Late Ram Bharosa Rai
 4. Kaushal Rai Son of Veer Mohan Rai
 5. Mukesh Rai Son of Tribhuwan Rai
 6. Bhupendra Rai Son of Veer Mohan Rai All are resident of village -
Baikunthpur, P.S. Baikunthpur, District - Gopalganj

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Shankar Ram Son of Sitaram Ram resident of village - Baikunthpur, P.S.
Baikunthpur, District - Gopalganj

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Srivastava
For the Opposite Party/s : Mr.Mukesh Kumar Singhapp

**CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER**

3 19-12-2019 This application has been filed for quashing of order dated 19.11.2010 passed in Tr. No.1512 of 2015 by Sri A.K. Tripathi, Judicial Magistrate, Gopalganj whereby and whereunder in a *prima facie* case against the petitioner, processes were issued against the petitioners.

Facts in short is that Baikunthpur P.S.Case No.50 of 2006 was instituted on the fardbeya of the informant under Sections 147, 148, 149,323, 385 and 307 of the Indian Penal Code and Section 3 (1) (x) of the S.C./S.T. (Prevention of



Atrocities) Act, with an allegation that the petitioners came variously armed , abused the informant by caste name , fired on the informant causing injury on his left leg and he was treated by the Doctor at Sadar Hospital, Gopalganj. It further appears that the police after investigation has submitted final form in this case not finding the case true, thereafter a protest petition was filed by the informant (O.P.no.2) on 20.7.2007, on which after inquiry, processes were issued against the petitioners finding a case true under Sections 147, 148, 323 and 324 of the IPC, which has been challenged by the petitioners in the present quashing application.

Grounds for quashing is that on the basis of the same materials, FIR was instituted and that culminated into final form submitted by the Police not finding the case true and without any fresh material on protest petition , cognizance has been taken.

Heard learned APP.

Having heard both sides and perused the record from which it appears that after investigation, the Police has submitted final form in a police case lodged by the informant not finding the case true, on the protest petition, a notice has been issued and the informant has filed protest petition, which



has been treated as complaint and on inquiry, statement of the O.P.no.2 was recorded on solemn affirmation, five witnesses have been examined on behalf of the complainant (O.P.no.2) and thereafter finding *prima facie* case for the offence under Sections 147, 148, 323 and 324 of the IPC, processes were issued against the petitioners. From perusal of the complaint petition itself it appears that there are allegations of assault after entering into the house and firing on the informant, causing injury and there are allegations that the petitioners came in a mob and assaulted the complainant and also fired on him, as such there is *prima facie* evidence to make out offence against the petitioners.

In view of the above facts, I find no merit in this application.

Accordingly, this application is dismissed.

(Vinod Kumar Sinha, J)

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