

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9778 of 2015

Arising Out of PS. Case No.-193 Year-2011 Thana- DUMRAO District- Buxar

Rodhan Yadav S/o Ramji Yadav resident of Village Ahibaran Rai Ka Dera,
P.S. Krishnabraham, District Buxar, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Saroj Sharma, son of Brahamdeo Sharma, resident of Village Alkalupur, P.S. Dumraon, District - Buxar, Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Surendra Kumar Singh with Mr. Prabhat Kumar Singh and Mr. Ganesh Prasad Singh, Advocates
For the State	:	Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 06-05-2019

Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner has moved the Court under Section 482
of the Code of Criminal Procedure, 1973 for the following relief:

“That, this is an application for quashing the order dated 19.04.2012 passed by Learned Judicial Magistrate, 1st Class, Buxar in G.R. No. 1412 of 2011/Tr. No. 2323 of 2012, arising out of Dumraon P.S. Case No. 193 of 2011, whereby and where under the Learned Judicial Magistrate 1st Class, Buxar, has taken cognizance under Section 147, 148, 149, 323, 324, 307 and 379 of the Indian Penal Code, 1860 for alleged offences committed by Petitioner, on wholly erroneous grounds by overlooking relevant and vital material available on record and ignoring the facts



and circumstances of the case and also by considering the case as against the Petitioner.”

3. Learned counsel for the petitioner submitted that there is allegation of the petitioner also assaulting the victim but such allegation is absolutely false and frivolous which can be shown from the materials on record.

4. Learned APP submitted that the petition is misconceived for the reason that the Court has taken cognizance based on the materials available before the Court, especially the police report which discloses such commission of offence by the petitioner also. It was further submitted that the Court, at the time of taking cognizance, is not required to meticulously weigh the evidence and even on strong suspicion and *prima facie* availability of material, the Court has to apply its mind with regard to taking of cognizance which has been done in the present case.

5. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any occasion to interfere in the order impugned taking cognizance. As has rightly been submitted by learned APP, the Court concerned, for the purposes of taking cognizance, has to only see as to whether *prima facie* there is material showing commission of such offence. Thus, this Court does not find any infirmity in the order impugned. However, the Court would



observe that all materials available with the petitioners can be shown to the Court below itself, at the appropriate stage, at the time of framing of charge when the Court is required to consider such materials which may be placed on behalf of the petitioner and then pass order, in accordance with law.

6. In view thereof, the application stands disposed off with the aforesaid observations.

7. If such an application is filed, the Court below shall consider all points raised by the petitioner and pass order, in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J)

Anjani/-

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