

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16168 of 2015**

Arising Out of PS. Case No.-108 Year-2010 Thana- SARAIYA District- Muzaffarpur

1. Pinki Devi @ Pinki Mahto w/o Rajnish Mahto
2. Rajnish Mahto S/o Chaturi Mahto
3. Manish Mahto s/o Chaturi Mahto All r/o village- Bahilwara Rupnath, P.S.- Saraiya, Distt.- Muzaffarpur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar @ S.K, Advocate .
For the Opposite Party/s : Mr. Nawal Kishore Pd., App

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT**

Date : 04-07-2019

Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners have challenged the order of cognizance dated 07.03.2013 passed by learned Sub-Divisional Judicial Magistrate, West, Muzaffarpur, in Saraiya P.S. Case No.108 of 2010 whereby cognizance has been taken against the petitioners for the offences under Sections 323/504 of the Indian Penal Code.

3. The challenge is on the ground that just to put wrong claim on the property of the petitioner this false case has been lodged just to harass when the petitioners returned back to



the village after completion of their service. Further submission is that the petitioner Rajnish Mahto is in Indian Navy and he was on his duty where petitioner No.1 Pinki Devi, wife of petitioner No.2, was also there.

4. FIR would reveal that the petitioners and others assaulted to the informant and to her physically disabled husband and committed other ancillary offences. The police submitted charge sheet after investigation of the case.

5. Law is well settled that the probable defence of false allegation can be considered at the appropriate state of trial only and at this stage prima facie allegation is there. Hence, this application is dismissed as devoid of any merit.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
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