

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7576 of 2015**

Arising Out of PS. Case No.-100 Year-2014 Thana- KHIJARSARAI District- Gaya

Subhash Kumar Arun @ Anirudh Prasad @ Arun Kumar Son of Akhil Kumar Arun@ Ram Pravesh Yadav Resident of Village- Inayatchak, P.S. - Khizar Sarai District- Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Vibha Devi wife of Madan Kumar Resident of Village Inayatchak , P.S. - Khizar Sarai District- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Prem Ranjan Kumar, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 02-05-2019

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 07.11.2014 passed in Khizar Sarai P.S. Case No. 100 of 2014 by Miss Akanksha Kashyap, the learned Judicial Magistrate 1st Class, Gaya where by and where under the learned court was pleased take cognizance for the offence under sections 341,323,504/34 of the Indian Penal Code against the petitioners 1. Subhash Kumar Arum @ Anirudh 2. Avinash Kumar Arun @ Pappu Kumar and 3. Akhil Kumar Arun @ Ram Pravesh Yadav.”



3. The allegation against the petitioner and two others is of abuse and demand of Rs. 50,000/- and also of assault on the informant as well as her mother-in-law and father-in-law and also pelting of stones at her house by the accused and further of threatening to kill her husband.

4. Learned counsel for the petitioner submitted that the police upon investigation, though has submitted charge sheet, but witnesses have stated during police investigation with regard to the innocence of the petitioner. However, on a direct query of the Court as to whether the evidence of witnesses recorded at paragraphs no. 8, 9, 10 and 11 of the case diary which has been relied upon by the Court below for taking cognizance shows complicity of the petitioner, learned counsel for the petitioner could not controvert the same.

5. Learned APP submitted that for the purposes of taking cognizance the Court has only to see as to whether *prima facie* allegations are made out or not. It was submitted that in view of there being material in the case diary, the order impugned by which cognizance has been taken, cannot be said to be bad in law.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the present application. As has rightly



been submitted by learned APP, the Court while taking cognizance has only to see as to whether *prima facie* there is evidence of offence having been committed by the accused and not anything further. Thus, the order impugned requires no interference.

7. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J)

Anjani/-

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