

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34216 of 2017

Arising Out of PS. Case No.-124 Year-2016 Thana- KALYANPUR District- Samastipur

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1. Jayant Kumar Singh Son of Late Kedar Prasad Singh,
 2. Animesh Kumar, Son of Jayant Kumar Singh, Both R/o Muktapur, P.S.- Kalyanpur, District- Samastipur.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Hemant Kumar Singh Son of Late Sunder Singh, R/o Muktapur, P.S.- Kalyanpur, District- Samstipur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Birendra Kumar Singh, Adv
For the Opposite Party/s	:	Mr. Parmeshwar Mehta, APP
For the OP No.2	:	Mr Tuhin Shankar, Adv

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

5 25-04-2019 Heard learned counsel for the petitioners, learned counsel for OP No.2, as well as learned APP.

2. Petitioners have challenged the order of cognizance dated 17.01.2017 passed by the Chief Judicial Magistrate, Samastipur whereby and whereunder petitioners along with others have been summoned to face trial for an offence punishable under Sections 341, 323, 447, 504, 506/34 of the IPC relating to Kalyanpur PS Case No. 124/2016

3. It has been asserted at the end of petitioners that there happens to be complete lacking of the exact wordings allegedly used by the petitioners leading to breach of peace and



that being so, Sections 504 and 506 IPC could not be made out. In likewise manner, there happens to be no allegation with regard to thrashing whereupon Section 323 IPC is also not made out. Remaining Sections are ornamental one. Apart from this, it has also been pleaded that the document in question having in the name of the wife of informant is under challenge in a Title Suit. That being so, it is a fit case for quashing.

4. Learned counsel representing OP No.2 as well as learned APP have submitted that after thorough investigation, allegations have been found true whereupon, charge-sheet has been filed followed with order of cognizance. That being so, the same should not be set aside. Apart from this, it has also been submitted that at the present stage, only *prima facie* case is to be seen which, the learned lower court has found. Because of the fact that there happens to be no illegality in the order impugned, so the submissions having at the end of the petitioners would not be appreciated in order to set aside the order impugned.

5. It has further been pleaded that whatsoever grounds have been enumerated at the end of the learned counsel for the petitioners are the subject matter of trial. Because of the fact that FIR should not be treated as an encyclopedia and that being so, the exact wordings, though, there happens to be



specific disclosure, they abused and further threatened him but in what manner, is the subject of evidence. Accordingly, the instant petition lacks merit.

6. First of all, after going through Annexure-2 of the instant petition, it is apparent that though the case has been filed on 14.10.2016 at the end of Animesh Kumar, petitioner No.2, but the same happens to be with regard to the date of occurrence dated 04.10.2016 and more or less presence of Arun Singh is found admitted. When the contents thereof, have been gone through, it is apparent that an occurrence had taken place over the place of occurrence and for that, there happens to be version and counter version. The genuineness thereof, is the subject matter of trial. Accordingly, instant petition lacks merit and is, accordingly, rejected.

As such, stay granted vide order dated 09.03.2018 stands vacated.

(Aditya Kumar Trivedi, J)

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