

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1059 of 2019

Arising Out of PS. Case No.-401 Year-2018 Thana- ARA NAWADA District- Bhojpur

1. Mahabir Singh S/o Late Ramayan Singh
2. Kiran Devi W/o Mahabir Singh
3. Aman Kumar S/o Mahabir Singh
4. Ankit Kumar S/o Mahabir Singh
All resident of Mohalla- Basisth Nagar, P.S.- Ara Nawada, District- Bhojpur
5. Rahul Kumar S/o Brajendra Singh, resident of Mohalla- Ganghar, P.S.- Ara Muffasil, District- Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar through Director General of Police, Bihar, Patna
2. The Superintendent of Police, Bhojpur at Ara
3. The Deputy Superintendent of Police, Bhojpur at Ara
4. The Officer Incharge of Ara Nawada Police Station, District- Bhojpur
5. The Investigating Officer of Ara Nawada P.S. Case No. 401 of 2018
6. Umesh Kumar Singh S/o Late Ramayan Singh, resident of Mohalla- Basisth Nagar, P.S.- Ara Nawada, District- Bhojpur

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar Singh, Advocate
For the Respondent/s : Mr. Sheo Shankar Prasad, SC-8

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 15-07-2019

Heard learned counsel for the petitioners and
learned counsel for the State.

2. This application has been filed by the petitioners for quashing the first information report (for short 'IPC') of Ara Nawada P.S. Case No.401 of 2018 dated 13.06.2018 registered *inter alia* under Section 307 of the Indian



Penal Code.

3. It is submitted by the learned counsel for the petitioners that the allegations made in the FIR are absolutely false. According to him, no occurrence, as alleged in the FIR, had taken place on 10.06.2018. As a matter of fact, the informant, who is brother of petitioner no.1, has set up a false case in order to grab the joint family property and with ulterior motive implicated the petitioner no.1, a practicing advocate, his wife (petitioner no.2), their sons petitioner nos.3 and 4, who are highly educated and petitioner no.5, who is preparing for competitive examination after completion of his graduation.

4. On the other hand, learned counsel appearing for the State submitted that in the FIR there is specific allegation that the accused persons being variously armed with pistol, dagger, iron rod and Danda forcefully entered into the house of the informant and started removing house hold articles. When the informant protested against the action of the accused persons, they abused and started assaulting him with iron rod and Danda and when he fell down, the accused persons, namely, Mahabir Singh and Aman Kumar assaulted him with dagger with intention to kill as a result of which he sustained several injuries on face, nose and at several places on arms. The accused



Ankit Kumar also participated in assault and on *Hulla* made by the informant when his wife came in rescue, the accused Mahabir Singh, his wife Kiran Devi and his son Ankit Kumar started assaulting his wife Babita Devi also, as a result of which she sustained several injuries on her person. They also damaged house hold articles. He contended that the aforesaid allegations would certainly attract ingredients of a cognizable offence. Hence, neither the institution of the FIR nor its investigation is bad.

5. Having heard learned counsel for the parties, I find substance in the submissions of the learned counsel for the State.

6. The allegations made in the FIR, as contained in Annexure-1 to this application, do attract ingredients of a cognizable offence. To hold investigation into a cognizable offence is the statutory duty of the police. In that view of the matter, if the FIR has been instituted and investigation is going on, the same cannot be held to be bad. The plea taken by the petitioners in defence can be examined by the police in course of investigation. At the stage of investigation, the court has no role to play. The role of the court would start only after the investigation is completed and a report



under section 173(2) of the Cr.P.C. would be submitted before the court of jurisdictional Magistrate.

7. Regard being had to the allegations made in the FIR, the relief sought for by the petitioners in the present application cannot be granted, as the application lacks merit. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	

