

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14046 of 2015

Arising Out of PS. Case No.-1292 Year-2013 Thana- BHABHU(KAIMUR) COMPLAIN C
District- Kaimur (Bhabua)

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1. Ashok Kumar Pandey Son of Late Aditya Kumar Pandey, the then Anchaladhikari Chand Anchali, P.O. + P.S. Chand, District – Kaimur (Bhabua), at present posted as Circle Officer, Piprakothi, East Champaran.
 2. Chandrika Singh @ Chandrika Prasad Singh, son of Late Sidhnath Singh, the Circle Inspector Chand, P.S. Chand, District - Kaimur
 3. Pramod Singh @ Pramod Kumar Singh, son of Late Sri Niwas Singh, Karmachari, Chand Block, P.O. & P.S. Chand, District - Kaimur
 4. Ravindra Singh @ Ravindra Pratap Singh, son of Late Lalita Singh, Assistant in Block, Chand, P.O. & P.S. Chand, District - Kaimur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Radheyshyam Singh, son of Late Pashupati Singh, resident of village-Duguthuwa, P.O. and P.S. Chand, District - Kaimur Bhabhua

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Nandan Sahay, Advocate
For the Opposite Party/s : Mr. Ajit Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 09-05-2019

Heard learned counsel for the parties.

2. The petitioners have challenged the order dated 01.05.2014 passed by the learned Chief Judicial Magistrate, Bhabua in Complaint Case No. 1292 of 2013 whereby cognizance has been taken against the petitioners under Sections 341, 323, 379 of the Indian Penal Code; as also against the order dated 09.02.2015



passed by the learned Sessions Judge, Kaimur at Bhabua in Criminal Revision No. 42 of 2014/483 of 2014 whereby the order of cognizance, referred to above, has been upheld and affirmed.

3. The learned counsel for the petitioners has submitted that the complainant/O.P. No. 2 had filed a mutation case before petitioner No. 1, who, at the relevant time was the Circle officer at Chand Circle and in the aforesaid case, the petitioner Nos. 2 and 3, who are Circle Inspector and Revenue Karmachari had reported against the complainant/O.P. No. 2. The petitioner No. 4 served as an Assistant at the relevant time in the office of the Circle Officer, Chand Circle.

4. It has further been submitted that when an order was passed against the complainant/O.P. No. 2, he preferred an appeal before the D.C.L.R, Kaimur, which also was rejected.

5. Aggrieved by this, a false complaint case has been filed by the complainant/O.P. No. 2 against the



petitioners.

6. The order taking cognizance does not refer to the aforesaid facts and only the allegation of assault, abuse and divesting the complainant/O.P. No. 2 of the money which was carrying on his person by the petitioners has been taken into account.

7. True it is that a complaint has to be seen on the basis of averments made in the complaint petition and no roving inquiry is to be made for the purposes of testing the correctness of the allegations levelled in such complaint petition. Nonetheless, if the facts are straight and the allegations are totally unbelievable, such facts ought to have been taken into account by the learned Magistrate.

8. The revisional order also, it has been urged, suffers from the vice of non-application of mind as the revisional court has taken the plea while affirming the order of cognizance that for the offence of assault and abuse, no sanction is necessary despite the petitioners



being Government servant.

9. The issue here is not of any official duty but assessment of the nature of allegation in the background of the complainant/O.P. No. 2 having lost the case in the Court of petitioner No. 1 which was acting as a *quasi-judicial* authority, such a complaint ought not to be entertained specially when an order against the complainant/O.P. No. 2 was filed which order was affirmed by the Appellate Authority.

10. For the facts aforesaid, the order of cognizance as well as the order passed in revision, affirming the order of cognizance are not sustained in the eyes of law. Both the orders impugned are set aside.

11. The application stands allowed.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
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