

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.12167 of 2015**

Arising Out of PS. Case No.-2025 Year-2013 Thana- SARAN COMPLAINT CASE District-  
Saran

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1. Ramashankar Rai Azad @ Ramashankar Rai.
  2. Upendra Rai Both are Sons of Late Bibhuti Rai
  3. Sonu Kumar Son of Ramashankar Rai Azad @ Ramashankar Rai
  4. Sandip Rai Son of Upendra Rai Residents of Village Chhitar Chak, Police station sonepur, District Saran.

... .. Petitioner/s

Versus

1. State Of Bihar.
2. Lal Babadur Rai@ Gandhi Son of late Bhola Rai Complaint No 2 is resident of village Chittar Chak , P.s Sonepur, District Saran.

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Najmul Hoda  
For the Opposite Party/s : Mr.J.Upadhyayapp

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**CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA**  
**ORAL ORDER**

4      16-12-2019                      This application has been filed for quashing the order dated 18.11.2014 passed in Criminal Revision No. 148 of 2014 passed by Sessions Judge, Saran at Chapra, filed by the petitioners by which he has rejected the revision application filed by the petitioners and confirmed the order issuing process against the petitioners passed by the Judicial Magistrate, 1st Class Chapra at Saran in Complaint Case No. 2025 of 2013 Tr. No. 4435 of 2014.

Case in short is that when a complaint case has been filed by the complainant against the petitioners stating therein, inter alia, that while he was sitting in coal shop, accused persons came there in



inebriated condition and demanded Rangdari. On refusal they abused and assaulted the complainant by fists and slaps and also taken away Rs. 25,000/- from the cash box.

After inquiry under Section 202 Cr.P.C. finding a prima facie case for the offence under Sections 323, 379 and 34 of the I.P.C. against the petitioners, process have been issued which has been challenged by the petitioners in Criminal Revision as stated above.

Ground for quashing of the impugned order is that earlier a case is lodged by the petitioner against the complainant and present case is counter blast of the case filed by practitioners and moreover, whole family members were made accused in this case. It has also been submitted that the present prosecution is malicious and vexatious proceeding, filed with an intention to harass the petitioner.

Heard learned A.P.P. also.

It is well settled that during enquiry the magistrate has to see as to whether there are prima facie evidence, if remains un rebutted, made out offence under Sections 379, 323 and 34 of the I.P.C., on the basis of the materials available on the record and on perusal of the record it appears that there are prima facie materials against the petitioners constituting an offence under Sections 379, 323 and 34 of the I.P.C. So far as the defence of the petitioner that a counter case has been lodged for the occurrence on the same day, they cannot be bound with the same, at this stage. Considering the same, I find no merit in this application.



Accordingly, this application stands dismissed.

**(Vinod Kumar Sinha, J)**

Rahul Mishra/-

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