

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1223 of 2019

Arising Out of PS. Case No.-449 Year-2019 Thana- KHAJANCHI HAT District- Purnia

1. Chandan Kumar Singh, Son of Late Kamleshwari Prasad Singh, Resident of Mohalla - New Shivpuri behind Bal Bharti School, Purnea, P.S.- K. Hat, District - Purnea
2. Smt. Meena Devi @ Meena Singh, Wife of Sri Chandan Kumar Singh, Resident of Mohalla - New Shivpuri behind Bal Bharti School, Purnea, P.S.- K. Hat, District - Purnea
3. Prashant Kumar, Son of Sri Chandan Kumar Singh, Resident of Mohalla - New Shivpuri behind Bal Bharti School, Purnea, P.S.-K. Hat, District - Purnea

... .. Petitioners

Versus

1. The State of Bihar Through Principal Secretary, Department Of Home, Government of Bihar, Patna.
2. Director General of Police, Bihar, Patna.
3. District Magistrate, Purnea, Bihar.
4. Superintendent of Police, Purnea.
5. Station House Officer, K. Hat (Maranga Police Station), District-Purnea.
6. Niranjana Kumar Singh, Son of Sri Dharendra Narayan Singh, Resident of Mohalla - New Shivpuri Behind Bal Bharti School, Purnea, P.S.- K. Hat, District - Purnea

... .. Respondents

Appearance :

For the Petitioner : Mr. Jitendra Prasad Singh, Advocate
For the Respondents-State: Mr. Manish Kumar, GP-4

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 27-08-2019

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

2. This application under Articles 226 and 227 of the
Constitution of India has been filed by the petitioners for quashing
the First Information Report (for short 'FIR') of K.Hat (Maranga)



P.S. Case No.449 of 2019 registered under Sections 341, 323, 325, 354A, 379, 504 and 506 read with 34 of the Indian Penal Code.

3. Learned counsel appearing for the petitioners submitted that though the date of occurrence is 22.06.2019 at 2:15 p.m., the Officer-in-charge of the police station was informed regarding the incident of occurrence on 23.06.2019 at about 10:10 a.m. A suit vide Title Suit No.32 of 2019 has already been filed by the petitioner no.1 against the informant and others seeking relief for declaration that the plaintiff has got easement right over the schedule A property of the plaint and a decree for permanent injunction restraining the defendants from obstruction of the path way has also been sought for. In the suit, the informant is defendant no.2 and he has already entered into appearance.

4. He has further contended that the instant case has been instituted by the petitioner on the basis of false and concocted story, which would be evident from the CCTV footage of the camera situated at the house of the petitioners and, as such, the petitioner no.3 sent the video of the CCTV footage to the respondent authorities through Whatsapp and he also filed an application before the respondent authorities including the Director General of Police, Bihar, Patna praying therein to verify the fact and to supervise the matter.



5. *Per contra*, learned counsel appearing for the State submitted that the allegations made in the FIR would certainly attract the ingredients of a cognizable offence. In case of a cognizable offence, the police have statutory duty to register FIR and investigate the same. He has further submitted that the defence of the petitioners can not be made a ground for quashing of the FIR. The defence taken by the petitioners has to be considered by the investigating officer in course of investigation. In case, the allegations would be found to be true, a report under Section 173 of the Code of Criminal Procedure would be submitted before the court of Magistrate, who would look into the materials and pass orders in accordance with law.

6. Having heard the parties and perused the materials on record, I find that the FIR of K. Hat (Maranga) P.S. Case No.449 of 2019 has been registered on the basis of the written report submitted by one Niranjana Kumar Singh (respondent no.6) on 23.06.2019 alleging therein that on 22.06.2019 at about 2:15 p.m. while he went to his house for lunch from the office of district Nazarat, Purnea, the accused persons assaulted him with iron rod. He has further alleged that the accused persons snatched golden chain, ring and Rs.4,500/- and while his wife came there, then all



the accused persons assaulted her also and snatched her chain and pulled her 'sari'.

7. The allegations made in the FIR do attract the ingredients of cognizable offence.

8. To hold investigation into a cognizable offence is the statutory right of the police. At this stage, the Court can not appreciate the defence taken by the petitioners. The defence of the petitioners has to be considered at appropriate stage.

9. In that view of the matter, finding no merit in the application, the application is dismissed.

10. However, the petitioners would be at liberty to take all the points available to them before the jurisdictional Magistrate after the investigation is completed in accordance with law.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.08.2019
Transmission Date	31.08.2019

