

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31077 of 2015

Arising Out of PS. Case No.-2183 Year-2013 Thana- BHOJPUR COMPLAINT CASE
District- Bhojpur

1. Harbansh Rai Son of Late Deep Narain Rai
2. Amit Kumar Son of Sri Harbansh Rai. Both Resident of village- Karbasin, P.S.- Sahar, District- Bhojpur.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Balmiki Paswan Son of Late Ayodhya Paswan. Resident of village- Karbasin, P.O.- Sahar, P.S.- Sahar, District- Bhojpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Awadhesh Kumar Mishra, Advocate Mr.Ajay Kumar, Advocate Mrs.Rita Rai, Advocate
For the Opposite Party/s :		Mr.Ram Shankar Das, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 24-07-2019

Heard learned counsel for the parties.

2. This application has been preferred, under Section 482 of the Code of Criminal Procedure, for quashing the order of cognizance dated 01.09.2014, passed by the learned Judicial Magistrate-1st Class, Ara in connection with Complaint Case No.2183(C) of 2013, corresponding to Trial No.5542 of 2015.

3. On the report of opposite party No.2, *Balmiki Paswan*, Sahar Police Station Case No.79 of 2013 was registered against the petitioners for the offences under Sections 145, 504/34 of the Indian Penal Code and Section 3(1)(X) of the



Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4. Allegation against the petitioners, in the First Information Report is that they abused the informant by taking his caste name for the reason that informant had purchased a land from a co-sharer of the petitioners.

5. After investigation, the Police submitted report that the matter is of land dispute and in the circumstances did not send up the petitioners for trial. However, a protest petition was already filed in the Police case which was treated as Complaint Case No.2183(C) of 2013.

6. In the protest petition also identical allegation has been levelled and the enquiry witnesses supported the aforesaid allegation, that the accused persons abused the complainant by taking his caste name, in their presence.

7. Thereafter, by the impugned order dated 01.09.2014, the learned Judicial Magistrate-1st Class, Ara has taken cognizance against the petitioners for the offences under Sections 3 (1)(X) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

8. Learned counsel for the petitioners submits that this is a case of false implication due to land dispute between the



parties and the petitioners are in fact victim of atrocity, by abuse of the protective law which was made purposely for protection of the members of the scheduled castes and scheduled tribes and not for abuse of the said law.

9. At this stage, trustworthiness of the prosecution witnesses and meticulous appreciation is not permissible. Prima facie material disclosing offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is apparently there. Hence, the impugned order requires no interference. Accordingly, this application stands *dismissed*.

(Birendra Kumar, J)

abhishek/-

AFR/NAFR	NAFR
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