

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78450 of 2019

Arising Out of PS. Case No.-1486 Year-2018 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. Ashok Prasad, Son of Mahendra Mahto @ Mahendra Prasad
 2. Akhilesh Prasad, Son of Mahendra Mahto @ Mahendra Prasad
 3. Sonu Kumar, Son of Ashok Prasad
 4. Nikhil Kumar, Son of Ashok Prasad
 5. Mahendra Mahto @ Mahendra Prasad, S/O Billu Mahto
 6. Manorama Kumari, D/O - Mahendra Mahto @ Mahendra Prasad
 7. Tara Devi, Wife of Ashok Prasad
 8. Ramartiya Devi @ Ramratiya Devi, Wife of Mahendra Mahto @ Mahendra Mahto
 9. Sareena Kumari @ Sarita Kumari, Wife of Akhilesh Prasad
 10. Anjali Kumari, D/O - Akhilesh Prasad,
All Resident of Village - Pranpur, P.S.- Paraiya, District- Gaya

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Akash Raj, Adv.

For the Opposite Party/s : Mr.Abhay Kumar Roy, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 20-12-2019 Petitioners in the present case are seeking quashing of the order dated 01.06.2019 passed in Complaint Case No.1486 of 2018 by which learned Additional Chief Judicial Magistrate-III, Gaya has been pleased to take cognizance of the offence under Sections 323, 380 and 504 of the Indian Penal Code and decided to issue summons to the accused-petitioners.

Learned counsel for the petitioners has taken this Court through the allegations made in the complaint petition. It is his



submission that on a trivial issue as the children had a quarrel, these petitioners have been falsely implicated with malafide intention to harass them. In this connection, there is a counter case also lodged by the petitioners' side which is annexure-2. The contention of learned counsel for the petitioners is that given the kind of allegations, it may be easily found that it is a case of false implication of the petitioners and hence the learned Magistrate taking cognizance and issuance of summons to the petitioners has acted in a totally mechanical manner.

Having heard learned counsel for the petitioners and upon perusal of the complaint petition, this Court finds that there are specific allegations against all these petitioners that they acted under a pre-concert of mind and conspiracy, came lashed with lathi, danda and pistol entered in the house of the complainant, abused her and assaulted her which caused injury to the complainant. Having said so, the complainant has described in the complaint petition the specific role of each of the accused persons played in the alleged occurrence. She supported the complaint petition with her statement on oath, the enquiry witnesses who alleged that the accused persons had indulged in the alleged occurrence.

On the face of the materials available on the record, this Court finds that contention of learned counsel for the petitioners that it is a case of false implication cannot be gone into as it would depend upon the facts which will be proved in course of trial. The allegations are such that on a bare reading of the complaint petition it



cannot be said that no case is made out against the petitioners. At the stage of taking cognizance and issuance of summons only prima-facie case is to be seen by the learned magistrate. On perusal of the impugned order, this Court finds that the learned Magistrate has on being satisfied with the materials available on the record taken a view that a prima-facie case is made out and there are sufficient materials to proceed against the accused persons under Sections 323, 380 and 504 of the Indian Penal Code, the learned Magistrate has not taken cognizance under various other provisions of the IPC in which the allegations were also made.

This Court does not find any reason to interfere with the impugned order. All such pleas which are available to the petitioners at this stage are left open to the petitioners, to be taken at the time of framing of charge.

This application stands disposed of.

(Rajeev Ranjan Prasad, J)

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