

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78522 of 2019

Arising Out of PS. Case No.-1148 Year-2012 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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1. BABUAN JHA @ HARGOVIND JHA Son of Late Lotan Jha Resident of Village - and P.O.- Gaur Andhra, P.S.- Rudrapur, Distt.- Madhubani.
 2. Ganesh Kumar Jha Son of Sri Babuan Jha @ Hargovind Jha Resident of Village - and P.O.- Gaur Andhra, P.S.- Rudrapur, Distt.- Madhubani.
 3. Lalita Devi W/O Babuan Jha @ Haregovind Jha Resident of Village - and P.O.- Gaur Andhra, P.S.- Rudrapur, Distt.- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bharat Jha Son of Late Bal Govind Jha Resident of Village - and P.O.- Gaur Andhra, P.S.- Rudrapur, Distt.- Madhubani.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kumar Ravi Shankar
For the Opposite Party/s : Mr.Abhay Kumar

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 09-12-2019 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The instant petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short ‘the Code’), has been preferred for quashing the order dated 12-02-2014 passed by J.M. 1st Class, Jhanjharpur in C.R. No.1148 of 2012, T.R. No. 2285 of 2014, by which the learned Magistrate has taken cognizance against the petitioners for the offence under Sections 323, 379 and 427 of the Indian Penal Code as also the order dated 01.05.2019, passed by learned 1st Additional



Sessions Judge, Madhubani, in Cr. Rev. No. 1978 of 2014 C.F
whereby he has affirmed the order taking cognizance dated
12.02.2014.

The petitioners' counsel submits that the prosecution case
is based on *mala fide* since the parties are on litigating terms and
there is pending civil litigation between the parties. The Court
has gone through the allegations made in the complaint petition.
The ingredients of criminal offences, for which, the complaint
has been lodged are, *prima facie*, found in the complaint
petition. At the stage of taking of cognizance, nothing more was
required to be seen. The pendency of civil litigation between the
parties since before *per se* cannot be made a ground to interfere
with the cognizance order which is based on the averments
and disclosure of *prima facie* offences on the basis of such
averments.

The application stands dismissed.

(Madhuresh Prasad, J)

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