

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.3262 of 2018

Arising Out of PS. Case No.-18 Year-2016 Thana- SC/ST District- Sitamarhi

1. Girija Nandan Sharma son of Late Sattan Singh
2. Sunil Kumar @ Sunil Sharma
3. Sudhir Kumar @ Sudhir Sharma
4. Sushil Sharma @ Raju Sharma

All three sons of Girija Nandan Sharma

All resident of village-Muradpur,P.S. Dumara, District-Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department,
Government of Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The District Magistrate, Sitamarhi
4. The Superintendent of Police, Sitamarhi
5. The Deputy Superintendent of Police, Sitamarhi
6. The Officer-in-Charge SC/ST P.S., Sitamarhi Police station, District-
Sitamarhi
7. Mahadev Mallik son of Late Bhutta Mallik, Village- Muradpur, P.S.- Duma,
District-Sitamarhi

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Advocate

For the Respondent/s : Ms. Rachikar Jha, AC to SC-8

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 11-01-2019

The defect, as pointed out by the registry, is ignored.

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



3. The writ petition has been filed by the petitioners for quashing the FIR of Sitamarhi SC/ST P.S. Case No.18 of 2016 dated 01.03.2016 registered under Sections 341, 323, 504 and 506 of the Indian Penal Code as well as Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

4. Learned counsel for the petitioners submitted that the allegations against the petitioners are malicious in nature. It is the petitioners, who are the owners of the land in dispute and the informant of the case is repeatedly harassing them by making frivolous allegations. He contended that there is no truth behind the allegations made in the first information report and the entire investigation is vexatious in nature.

5. On the other hand, learned counsel for the State submitted that there is allegation in the first information report that petitioner no.1 Girija Nandan Sharma abused the informant Mahadev Mallik by taking his caste name 'Dom' and there is further allegation that while the accused persons assaulted him with fists and slaps, the accused Girija Nandan Sharma assaulted him with shoes. He contended that the allegations made in the first information report attract the ingredients of the offences alleged.



6. I have heard learned counsel for the parties and perused the FIR of Sitamarhi SC/ST P.S. Case No.18 of 2016.

7. Mahadev Mallik had filed a complaint in the court of Chief Judicial Magistrate, which was referred to the police in exercise of powers conferred under Section 156(3) of the Code of Criminal Procedure by the Magistrate for investigation pursuant to which first information report was instituted about two years ago on 01.03.2016. It is not known what is the stage of investigation as the petitioners have not stated a word in their petition regarding the status of investigation. The first information report contains the allegation that one of the accused abused the complainant by taking his caste name 'Dom'. There is also allegation that all the accused persons except one assaulted the informant with fists and slaps and the accused Girija Nandan Sharma assaulted him with shoes. In that view of the matter, it cannot be said that no cognizable offence is attracted. Once a cognizable offence is reported to the police, it is their statutory duty to institute a case and investigate the same.

8. The defence taken by the petitioners at this stage cannot be made a ground for quashing a first information



report. That has to be examined by the police in course of investigation. At this stage, the court has no role to play. Once the investigation is over and a report is submitted before the court, the role of the court would start. At that stage, the court would be in a position to see as to whether any prima facie case is made out against the accused or not.

9. In that view of the matter, I see no merit in the writ petition. It is dismissed accordingly.

(Ashwani Kumar Singh, J)

Md. S/-

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