

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.341 of 2020

Arising Out of PS. Case No.-274 Year-2019 Thana- MIRGANJ District- Gopalganj

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1. Anurag Kumar Pandey S/o Harimohan Pandey Resident of Village-Gosai Tola Turkaha, P.S. and District-Gopalganj.
 2. Harimohan Pandey S/o Late Mahendra Pandey Resident of Village-Gosai Tola Turkaha, P.S. and District-Gopalganj.
 3. Anant Kumar Pandey @ Suraj Pandey S/o Harimohan Pandey Resident of Village-Gosai Tola Turkaha, P.S. and District-Gopalganj.

... .. Petitioners

Versus

1. The State Of Bihar Through, Home Secretary, Bihar, Patna
2. The Director General of Police, Bihar, Patna.
3. The Superintendent of Police, Gopalganj, District-Gopalganj.
4. The Deputy Superintend of Police, Gopalganj.
5. The SHO, Gopalganj, P.S-Gopalganj, District-Gopalganj.
6. Brahma Ram S/o Nathuni Ram Village-Ahirauli, P.S-Mirganj, District-Gopalganj.
7. Hinsa Devi W/o Brahma Ram Resident of Village-Ahirauli, P.S-Mirganj, District-Gopalganj.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar Upadhyay
For the Respondent/s : Mr. AG

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 18-06-2020

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

2. The instant 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 Mirganj P.S. Case No. 274 of 2019 dated 13.11.2019 registered for the offences punishable under Sections 341, 323, 504, 325, 354, 448, 506 and 34 of the Indian Penal Code and Section 3(2)(VA) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. Learned counsel appearing for the petitioners submitted that the allegations made in the FIR do not constitute any cognizable offence. The FIR in question has been instituted with the sole intention to pressurize the petitioner in the ongoing land dispute in which settlement has already taken place as per the narration of the informant in the FIR itself.

4. On the other hand, learned counsel appearing for the State submitted that no case for quashing of the FIR is made out as the ingredients of a cognizable offence are clearly attracted in view of the allegations made in the FIR. He contended that the defence of the petitioners cannot be made a ground for quashing of the FIR.

5. The informant Brahma Ram has stated in his written report submitted to the Officer-in-Charge of Mirganj Police Station on 13.11.2019 that he had purchased the land bearing khata no. 135, Khesra No. 920 measuring 1½ katha situated at village Turkaha, P.S. and district Gopalganj in the name of his wife Hinsu Devi from Rameshwar Pandey son of late Ramchandra Pandey, resident of village



Turkaha, P.S. and district Gopalganj through registered sale deed. On 28.09.2019 at about 7:00 a.m. the accused persons, namely, Harimohan Pandey, Ramesh Pandey, Dilip Pandey, Anurag Pandey, Niraj Pandey and Suraj Pandey came to his house and started intentionally insulting and abusing him with an intent to humiliate calling him a member of '*Neech Jaati*'. They said that why he has purchased their land and assaulted him with fist and lathi. When his wife came to save him, the aforesaid persons assaulted her also due to which she sustained fracture of her leg. Thereafter, they threatened taking their caste name '*Chamar*' and said that if they would again come on the land in question, they would be killed.

6. The aforesaid allegations would clearly attract the ingredients of a cognizable offence.

7. It is well settled law that in case a cognizable offence is made out, an FIR cannot be quashed taking into consideration the defence taken by the accused persons.

8. The plea of innocence taken by the petitioners can be considered by the investigating agency at the stage of investigation and after the investigation is over, it is for the court either to take cognizance of the offence or not on the basis of the materials produced before it by the police under Section 173(2) of the Code of Criminal Procedure.



9. The application lacks merit.
10. It is dismissed accordingly.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	
Transmission Date	

