

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78128 of 2019**

Arising Out of PS. Case No.-50 Year-2017 Thana- SC/ST District- Banka

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1. Md. Masroor Alam Son of Late Md. Ashraf Ali Resident of Village-Uppar Tola, Chihar, P.S.-Barahat, District -Banka.
 2. Md. Maqsood Son of Late Md. Ashraf Ali Resident of Village-Uppar Tola, Chihar, P.S.-Barahat, District-Banka.
 3. Md. Hassan Son of Md. Maqsood Resident of Village-Uppar Tola, Chihar, P.S.-Barahat, District-Banka.
 4. Md. Hussain @ Hussain Son of Md. Maqsood Resident of Village- Uppar Tola, Chihar, P.S.-Barahat, District -Banka.
 5. Bibi Noorsaba Wife of Maqsood Alam Resident of Village-Uppar Tola, Chihar, P.S.-Barahat, District -Banka.
 6. Bibi Farzina Wife of Md. Hussain Resident of Village-Uppar Tola, Chihar, P.S.-Barahat, District -Banka.
 7. Bibi Soni @ Amna Khatoon Wife of Md. Hussain Resident of Village-Uppar Tola, Chihar, P.S.-Barahat, District -Banka.
 8. Bibi Jinnat @ Bibi Jinat Ara Wife of Md. Masroor Alam Resident of Village-Uppar Tola, Chihar, P.S.-Barahat, District- Banka.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Mahesh Harijan Son of Late Sudhan Harijan Resident of Village-Lilaharan (Uppar Tola), P.S.-Barahat, District-Banka.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Alok Kumar Alok, Adv.
For the Opposite Party/s : Mr.Sadanand Paswan, APP

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT**

Date : 06-01-2020

Heard learned counsel for the petitioners and learned

APP for the State.

The instant petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code'), has been filed for quashing the order dated 30.11.2018, passed by learned 1st Additional Sessions Judge, Banka, in G.R. No. 3694 of 2017,



arising out of SC/ST P. S. Case No. 50/2017, by which the learned Court below has taken cognizance against the petitioners for the offence under Sections 341, 323, 448, 504 and 506/34 of the Indian Penal Code and Section 3(1)(r)(g) of the SC/ST Act.

The petitioners are accused in SC/ST P. S. Case No. 50 of 2017. The allegation is that the father of the informant had purchased some lands and was in peaceful possession over the same. The petitioners' being co-villagers have made efforts to forcibly dispossess the informant from his land and, on protest made by the informant, they have abused the informant in public place and threatened with dire consequences. It is, on the basis of allegations made in the First Information report, that the criminal prosecution has been set in motion. In respect of disputes arising out of the same land, the petitioners have also filed a complaint case no. 1258 of 2017 against the informant's side. The informant's side also are facing criminal prosecution in the said proceedings. In the instant case, the police had submitted a final form in respect of the petitioner Nos. 5 to 8. On a protest petition being filed, the Court below has taken cognizance of the offences in respect of all the accused persons. The conclusion of the Court below to take cognizance is based



on the allegations made in the First Information report, wherein, ingredients of the offences for which cognizance has been taken are *prima facie* to be found. The Court below has also referred to material collected during the course of investigation. At the stage of taking cognizance the Court was not required to embark on any further enquiry as veracity of the allegations and material collected in course of investigation are yet to be examined in the course of trial. In view of such circumstances, this Court would only observe that the order taking cognizance dated 30.11.2018 does not require any interference.

The petitioners would be at liberty to avail the remedies in accordance with law at the appropriate stage. The observations of this Court in the instant order are only in support of order taking cognizance based on a *prima facie* satisfaction. The said observations shall not in any manner prejudice the petitioners' case otherwise.

The application is devoid of any merit and is, accordingly, dismissed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
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