

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87303 of 2019

Arising Out of PS. Case No.-266 Year-2019 Thana- BAGHA District- West Champaran

SUMANT KUMAR @ BALMIKI PASWAN Son of Chandmal Paswan
Resident of Village- Sirisiya, P.S.- Bharoganj, District- West Champaran
under the Natural Guardian of his father, namely, Chandmal Paswan aged
about 44 years (M) S/o Ram Chandra Paswan.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Brij Kishor Mishra

For the Opposite Party/s : Mr.Nirmala Kumari

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 09-01-2020

Heard learned counsel for the petitioner 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 06.11.2019, passed by learned Additional Chief Judicial Magistrate, Bagha, West Champaran in Bagha (Bharoganj) P. S. Case No. 266 of 2019, corresponding to G.R. No. 572 of 2019, by which the learned Court below has taken cognizance against the petitioner and others for the offence under Sections 341, 323, 324, 307, 447/34 of the Indian Penal Code.

In spite of the final form having been submitted by the police to the extent that no case was made out against the



petitioner, it is submitted that the Court has taken cognizance of the offences under order dated 06.11.2019 in respect of all the offences. The order taking cognizance is in respect of the petitioner along with other family members.

The prosecution story is in respect of a petty dispute. The informant's she-goat had scattered the sand of Chandmal Paswan. Chandmal Paswan being the father of the petitioner, his mother and petitioner started assaulting the informant and her husband. Specific allegation of assault was made against the petitioner in respect of the informant.

The Court below, while taking cognizance, has also examined the materials collected during the course of investigation. The Court has taken note of the fact that specific allegation was levelled against the petitioner. It is, in such circumstances, that cognizance has been taken against the petitioner also. The scope of consideration at the stage of taking cognizance is well established in law. Once the allegations are made out then *prima facie* case is to be considered by the Court on the basis of uncontroverted allegations for the limited purposes of taking cognizance.

Whether the petitioner was actually liable for the offences or whether it is a case of false implication is an issue



which is to be examined by the Court at the trial or the at the appropriate stage if raise by the petitioner. The order taking cognizance does not require any interference.

It is submitted by the petitioner's counsel that he would raise all the issues before the Court at the appropriate stage.

In view of the such submission,the application is disposed off with the liberty to raise his objection at the appropriate stage.

(Madhuresh Prasad, J)

shyambihari/-

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