

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87337 of 2019

Arising Out of PS. Case No.-1115 Year-2018 Thana- SAHARSA District- Saharsa

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NARESH YADAV Son of Late Parmeshwari Yadav Resident of Village -
Diwari Ward No. 1, P.S.- Sonbarsa Kachari, District - Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar
2. Satto Yadav Son of Late Ghoghai Yadav Resident of Village - Diwari Ward
No. 1, P.S.- Sonbarsa Kachari, District - Saharsa.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Deepak Kumar

For the Opposite Party/s : Mr. Rajendra Nath Jha

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

2 10-01-2020 Heard learned counsel for the petitioner as well as

learned Addl. Public Prosecutor for the State.

Petitioner has filed this application for quashing of order dated 18.06.2019 passed by the learned Magistrate, Saharsa in Saharsa Sadar P.S. Case no. 1115 of 2018 whereby he has taken cognizance under sections 147, 149, 341, 323, 325, 504 and 506 of the IPC against the petitioner.

It is submitted by counsel for the petitioner that occurrence in question has taken place due to subsisting land dispute. The allegations of indulging in violence and assault have been levelled by accused person (petitioner), as also by the informant. Two cases have arisen out of the said occurrence. Informant is also accused for the occurrence on the same date for which petitioner has lodged Saharsa Sadar P.S. Case no. 1116 of 2018.

The fact that there is case and counter case, *per se* cannot be



a ground for quashing the order taking cognizance and entire proceedings. The case has to be decided on its own merits at the trial after due opportunity to all accused persons and in accordance with procedure prescribed. The order taking cognizance dated 18.06.2019 is based on appreciation of ingredient of assault and other offences for which the ingredients are made out from uncontroverted allegations made in the F.I.R. Cognizance which has been taken therefore does not call for any interference.

The court has also gone through the case diary and charge sheet submitted by the police after investigation, for the offences under sections 147, 149, 341, 323, 325, 504 and 506 of the IPC. The limited scope of at the stage of taking cognizance is to see whether un-controverted allegation made in the F.I.R along with materials collected during the course of investigation is sufficient for making out ingredient in respect of offences. The same having been found that order dated 18.06.2019 does not require any interference by this court exercising jurisdiction under section 482 Cr.P.C.

Application is dismissed.

s.hassan/-

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(Madhuresh Prasad, J)

