

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.10706 of 2021**

Arising Out of PS. Case No.-213 Year-2018 Thana- MAHESI District- East Champaran

1. Md. Hasim @ Md. Hasib Son Of Shekh Islam @ Md. Islam Resident Of Village - Sulsabad Barharwa, P.S.- Mehshi, District - East Champaran
2. Nasima Khatoon Wife Of Md. Hasib Resident Of Village - Sulsabad Barharwa, P.S.- Mehshi, District - East Champaran

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

**Appearance :**

For the Petitioner/s : Mr. Vijay Shankar Shrivastava, Advocate  
Mr. Ritesh Kumar Sinha, Advocate  
For the Opposite Party/s : Mr. Md. Fahimuddin, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

2      28-04-2022              Learned counsel for the petitioners undertakes to remove all the defects pointed out by the Stamp Reporter within two weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioners and Mr. Md. Fahimuddin, learned APP for the State.

The petitioners in the present case are seeking quashing of the order dated 04.02.2020 passed by the learned 6<sup>th</sup> A.C.J.M., Motihari, East Champaran in Mehshi P.S. Case No. 213 of 2018 whereby and whereunder cognizance has been taken under Sections 376, 313, 315, 341, 323, 504, 506/34 of the I.P.C. against the petitioners.

From the allegations mentioned in the First Information Report, it appears that there are allegations against the son of petitioners that he had committed rape upon the informant who



was visiting his house occasionally to cook the meal. It is alleged that about 20 days ago, when the informant had gone with the village lady in the litchi garden to work, she came to know that she was carrying pregnancy. She had also gone to a doctor with her mother and was found carrying pregnancy of 7 months 5 days. The allegation is that of mother of Md. Sahid who is petitioner no. 2 in this case had given her medicine for causing abortion and that caused abdomen pain, thereafter the mother of Md. Sahid abused her and ousted her from her house.

Learned counsel for the petitioners submits that as per the First Information Report, the alleged occurrence had taken place about 8 months ago but no FIR was instituted for the alleged occurrence and as per the FIR the second occurrence took place in between 09.06.2018 to 11.06.2018 but the FIR was instituted much after that on 23.06.2018. It is further submitted that the matter has been investigated and a chargesheet has been filed against the petitioners on 04.02.2020 wherein cognizance has been taken under Sections 376, 313, 315, 341, 323, 504 and 506/34 of the Indian Penal Code.

Learned counsel, therefore, submits that it is a case of false implication of the petitioners and there is no material against them for purpose of issuance of summons. It is their submission that they are next door neighbours and they had no role to play in



the alleged occurrence.

On the other hand, learned APP for the State submits that the allegations against the petitioners particularly petitioner no. 2 is specific and after investigation, police has submitted chargesheet against both the petitioners and cognizance has been taken. It is submitted that while exercising its jurisdiction under Section 482 Cr.P.C., this Court may not like to go into the factual aspects of the matter which are yet to be determined in course of trial.

Having regard to the submissions noted hereinabove and the materials placed on the record, this Court finds no reason to interfere with the order taking cognizance and issuance of summons as the police has investigated the matter and the case has been found true against these petitioners.

This application is, thus, dismissed with liberty to the petitioners to raise all such issues which are available to them at a time of framing of charge if the charge has not been framed as yet.

**(Rajeev Ranjan Prasad, J)**

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

