

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81438 of 2019

Arising Out of PS. Case No.-23 Year-2018 Thana- ITARHI District- Buxar

1. Binod Kumar Gupta @ Vinod Kumar Gupta @ Binod Gupta S/o Late Hanuman Gupta @ Hanuman Prasad @ Hanuman Prasad Gupta R/o village and Post- Itarhi, P.S.- Itarhi, District- Buxar
2. Vinay Kumar Gupta @ Vinay Gupta S/o Late Hanuman Gupta @ Hanuman Prasad @ Hanuman Prasad Gupta R/o village and Post- Itarhi, P.S.- Itarhi, District- Buxar
3. Pramila Devi W/o Binod Kumar Gupta @ Vinod Kumar Gupta @ Binod Gupta R/o village and Post- Itarhi, P.S.- Itarhi, Distt.- Buxar
4. Vivek Kumar Gupta @ Vivek Gupta S/o Binod Kumar Gupta @ Vinod Kumar Gupta @ Binod Gupta R/o village and Post- Itarhi, P.S.- Itarhi, Distt.- Buxar
5. Abhishek Kumar Gupta @ Abhishek S/o Binod Kumar Gupta @ Vinod Kumar Gupta @ Binod Gupta R/o village and Post- Itarhi, P.S.- Itarhi, Distt.- Buxar
6. Ankit Kumar @ Ankit Gupta S/o Binod Kumar Gupta @ Vinod Kumar Gupta @ Binod Gupta R/o village and Post- Itarhi, P.S.- Itarhi, Distt.- Buxar
7. Saraswati Devi W/o Hanuman Gupta @ Hanuman Prasad @ Hanuman Prasad Gupta R/o village and Post- Itarhi, P.S.- Itarhi, Distt.- Buxar

... .. Petitioners

Versus

1. The State of Bihar
2. Sheela Devi W/o Kali Prasad Keshari R/o village and Post- Itarhi, P.S.- Itarhi, Distt.- Buxar

... .. Opposite Parties

Appearance :

For the Petitioners :	Mr.Praveen Kumar, Advocate
For the Opposite Parties :	Mr.Aditya Nr Singh.1, Advocate
	Mr. Digvijay Kumar Ojha, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
C.A.V. JUDGMENT

Date : 08-09-2022

This application has been filed for quashing order taking cognizance dated 15.5.2018, passed in Itarhi Police Station Case No. 23 of 2018 dated 29.1.2018/GR No. 242 of 2018 registered for the offence punishable under sections 341, 323, 325,



504, 506, 379, 354, 354B and 34 of the IPC. He has also prayed for quashing the order dated 13.6.2019 by which the Court has framed charge against the accused petitioners under sections 341, 323, 504, 506 and 34 IPC.

It is alleged that while petitioner no.1 was cutting trees from the land of the informant, the same was objected by the informant. Thereafter, petitioner no.1 abused her and he along with other petitioners, armed with iron rod and sticks, attacked the informant. Petitioner no.2 outraged her modesty and snatched her Mangalsutra and petitioner no.1 threatened to spoil her family and petitioner no.7 assaulted the informant with sticks.

It is submitted on behalf of the petitioners that all the petitioners are of the same family. From bare reading of the prosecution case, it is apparent that there is absolutely no accusation against petitioners no. 3, 4 and 6. It is further submitted that so far as petitioner no.7 is concerned, same is unbelievable on the ground of being 79 years of old lady. He next submits that because of old land dispute between the parties this false and concocted case has been lodged by the informant against the petitioner. It is further submitted that the informant is habitual in filing false case and court below has not appreciated the grounds raised by these petitioners and took



cognizance of the offence and subsequently framed charges against the petitioners.

State and informant opposed the quashing petition and submitted that from bare perusal of the FIR it is apparent that there is specific allegation against all the accused persons that they assaulted informant with iron rod and sticks and tore the blouse and snatched Mangalsutra. Finding sufficient materials against the petitioners, Court below has taken cognizance and subsequently charges have been framed. At this stage, learned Court below is not obliged to examine merits of the allegations. The impugned order does not suffer from any illegality or irregularity and thus no interference is required by this Court.

Considering the facts and circumstances of the case and the submissions made on behalf of the parties, this Court does not find any infirmity in the impugned order. At this stage, the court has to shift the evidence to find out whether there is sufficient ground for proceeding. The grounds raised by the petitioners are the probable defence which can only be considered at the stage of trial after leading evidence. At this stage, defence or merits of the case cannot be considered.



In view of the aforesaid position of law, this Court does not find any illegality in the cognizance order dated 15.5.2018 as well as order of framing of charge dated 13.6.2019.

Accordingly, this petition is dismissed.

(Prabhat Kumar Singh, J)

Shashi

AFR/NAFR	NAFR
CAV DATE	1.9.2022.
Uploading Date	12.9.2022
Transmission Date	12.9.2022

