

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10881 of 2022

Arising Out of PS. Case No.-93 Year-2019 Thana- DAWATH District- Rohtas

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1. Raziur Rahman @ Lallu Khan Son of Late Bhola Khan @ Mojibur Rahman Resident of Village- Babhnaul, P.S.- Dawath, District- Rohtas.
 2. Munna Mukhia @ Matiquter Rahman Son of Late Bhola Khan @ Mojibru Rahman Resident of Village- Babhnaul, P.S.- Dawath, District- Rohtas.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Guddu Singh Son of Naresh Singh Resident of Village- Babhnaul, P.S.- Dawath, District- Rohtas.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Priya Ranjan, Advocate
For the Opposite Party/s : Md. Aslam Ansari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 28-03-2024 Heard the parties.

2. This application has been filed for quashing the order dated 01.12.2021 passed in Sessions Trial No. 571 of 2019 arising out of Dawath P. S. Case No. 93 of 2019 by the learned court of Additional District & Sessions Judge-16, Sasaram, Rohtas by which the petition of the petitioners under Section 227 Cr.P.C. has been rejected.

3. The prosecution case, in brief, is that on 07.06.2019 at 7:30 PM, while the informant was sitting with his elder brother at his Dalan, these petitioners along with 100-150 persons came there with lathi, danda, hockey sticks and



assaulted them as a result of which they sustained injury. It is further alleged that the reason for the alleged occurrence is the dispute that took place between the parties on the night of 06.06.2019 on the occasion of the marriage ceremony. It is further alleged that Dawath P. S. Case No. 93 of 2019 was registered for the offence under Section 147, 148, 149, 341, 323, 307, 336, 354, 447, 504 and 120(B) of the Indian Penal Code and Section 27 of the Arms Act and later Section 302 of the Indian Penal Code was also added for the aforesaid occurrence.

4. Learned counsel for the petitioners submits that discharge petition was filed on behalf of the petitioners which stood dismissed *vide* impugned order dated 01.12.2021. It is next submitted that petitioners have got no concern with the alleged occurrence and they have been made accused only because petitioner No. 1 happens to be advocate on behalf of one Mantu Singh and petitioner No. 2 is own brother of petitioner No. 1 and as such, no offence is made out against the petitioners.

5. Learned A.P.P. for the State opposed the application and submitted that there is sufficient material available on record to frame charge against the petitioners. At the stage of framing of charge, the defence of the accused cannot be taken



into consideration. It cannot be said that no prima facie case is made out against the petitioners and as such, no interference is required by this Court at this stage.

6. Heard the parties and perused the materials available on record. The grounds raised by the petitioners for quashing the impugned order are in the realm of defence which cannot be looked into at the stage of taking cognizance. It is settled law that at the time of taking cognizance and summoning the accused, learned Magistrate is required to apply judicial mind only with a view to take cognizance of the offence. At this stage, the learned Magistrate is not required to consider the defence version or materials or arguments nor is he required to evaluate the merit of the material or evidence of the complaint. In this connection, reference can be made to case ***Sonu Gupta vs Deepak Gupta & Ors reported in (2015) 3 SCC 424.***

7. In view of the foregoing discussions and the law laid down by the Hon'ble Supreme Court in the case of ***Sonu Gupta vs Deepak Gupta & Ors (supra)***, this Court does not find any illegality or irregularity in the impugned order dated 01.12.2021 passed in Sessions Trial No. 571 of 2019 arising out of Dawath P. S. Case No. 93 of 2019 by the learned court of Additional District & Sessions Judge-16, Sasaram, Rohtas.



8. This quashing application is, accordingly,
dismissed.

(Prabhat Kumar Singh, J)

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